


7-31-2013

Nebraska Sex Offender Registry Study

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Nebraska Sex Offender Registry Study

Final Report
July 31, 2013

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UNIVERSITY OF
Nebraska
Omaha

ACKNOWLEDGEMENTS

The University of Nebraska at Omaha Consortium for Crime and Justice Research would like to acknowledge the contributions of time and expertise that the following individuals made to this project. For their assistance with coordinating data extraction with the Nebraska State Patrol, we would like to thank Captain Julie Maaske, Lieutenant John Shelton, and Colonel David Sankey. For his assistance with coordinating with the Judiciary Committee, we would like to thank Lamont Rainey. Thank you to project coordinator Sommer Fousek for assistance with the design and format of the final report. For selflessly sharing her expertise in sex offender registry theory, research, and application, we would like to thank UNO's Dr. Lisa Sample.

EXECUTIVE SUMMARY

The Consortium for Crime and Justice Research at the University of Nebraska Omaha was charged by the Nebraska Legislature's Judiciary Committee to undertake a study of the Nebraska Sex Offender Registry. The primary goal of the study was to compare sex offender recidivism under the pre-LB 285 classification system that utilized risk levels derived from a psychological risk assessment instrument to sex offender recidivism under the post-LB 285 classification system utilizing Adam Walsh Act Tier Levels derived from offense severity. Additional goals include an overall examination of offender characteristics, victim characteristics, and offense characteristics among all individuals on the registry, as well as the relationship of these offender, victim, and offense characteristics with recidivism.

Methods:

Data for the project was collected from three sources: 1) Nebraska's Sex Offender Registry database, 2) the Nebraska State Patrol Criminal History Database (PCH), and 3) an FBI nationwide criminal records search. Graduate research assistants from UNO's School of Criminology and Criminal Justice extracted relevant data from the Sex Offender Registry database and linked it to recidivism data from Nebraska's PCH database and the FBI criminal records search. The resulting dataset was analyzed by Dr. Ryan Spohn using SPSS version 20.

Major Results:

Characteristics of offenders, victims, and offenses. The typical registered sex offender in Nebraska is a white male over the age of 26. The typical victim is a female acquaintance, age 12 to 17. By far, the most common type of offense was fondling. For both the pre-LB 285 risk-based classification system and the post-LB 285 tier system based on offense severity, the most common tier classification is Risk Level 3 or Tier 3, the most serious classification for each system. Although violence and/or a weapon were present in almost a quarter of the offenses, serious bodily injury was a rare event.

Sex offense recidivism. In comparing the old risk-based system of classification to the new offense-based system of classification, the former risk-based system resulted in less overall recidivism. Specifically, the pre-LB 285 classification system resulted in a 2-year recidivism rate of 1.7% and a 1-year recidivism rate of 0.6%. In comparison, the post-LB 285 classification system resulted in a 2-year recidivism rate of 2.6% and a 1-year recidivism rate of 1.7%. We also examined the effectiveness of each classification system in identifying offenders at the highest risk to reoffend. In general, the former system that utilized a psychological risk assessment tool consistently distinguished offenders who were at a high, medium, and low risk to reoffend. In comparison, the AWA system was very effective in distinguishing those at a high risk to reoffend from medium and low risk offenders. However, the AWA classification system consistently failed to distinguish offenders

at medium risk to recidivate from those at low risk to recidivate. Our findings suggest that, as an overall tool for identifying a nuanced risk to reoffend, the old risk-based system appears more effective. However, if the goal is simply to distinguish the highest risk offenders from everyone else, the Adam Walsh Act Tier system appears most effective. One caveat, however, is that this latter finding is in sharp contrast to published research on sex offenders in other states (Zgoba et al. 2012).

Factors related to sex offender recidivism in Nebraska. Our analysis focused on characteristics of the offenders, victims, and offenses that were significantly related to reoffending. Regarding offender characteristics, male offenders were more likely to reoffend as compared to female offenders and offenders diagnosed with a personality disorder were more likely to reoffend. Regarding victim characteristics, rates of recidivism were significantly elevated if the victim was a family member or an acquaintance, with the latter more than doubling the likelihood of a new sex offense. Recidivism is also more likely if the victim was age 11 or under. The most salient characteristic of victims, however, is the sex of the victim, as rates of recidivism were substantially higher if the offense leading to registry involved both male and female victims. Finally, regarding characteristics of the offense, rates of recidivism were elevated if the offense included explicit material or fondling, with the latter displaying the strongest relationship to subsequent offending. Offenses that involved the use of violence and/or a weapon were also related to recidivism.

Multivariate analyses of factors predicting recidivism. These analyses allow a simultaneous consideration of multiple factors while predicting the effect of each factor on recidivism, holding constant the effect of the other variables in the model. This analysis indicated that the most important factors for predicting recidivism were characteristics of the victims, suggesting that we must take into account victim characteristics if we want to adequately predict recidivism amongst sexual offenders. We also applied models to assess the ability of the old classification system versus the new classification system to predict recidivism while controlling for, or holding constant, the effect of offender characteristics. For the old system, being assigned a high or medium risk level significantly predicted recidivism as compared to being assigned a low risk level to reoffend. Regarding the AWA classification system, the model predicts that the highest tier (Tier 3) offenders in Nebraska were nearly 14 times more likely to recidivate as compared to the lowest tier (Tier 1) offenders.

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INTRODUCTION

Sexual victimization is of great concern to the public, as evidenced by the legislative attention it has received over the last twenty years (Adkins, Huff, and Stageberg 2000; Levenson 2006; Sample and Kadleck 2008; Schram and Milloy 1995; Walker et al. 2005; Zevit 2006). To help increase public safety and address public concern, corrections departments nationwide have adopted some form of risk classification and assessment instrument for offenders who have been convicted of sex crimes (Richardson and Huebner 2006). Some of the most popular risk assessment instruments include the STATIC 99, RRASOR, MnSOST, SORAG, and ASRS (Richardson and Huebner 2006; Vess and Skelton 2010). These instruments have all been empirically validated and been found to accurately predict risk of reoffending, although with varying degrees (Blasko, Jeglic, and Mercado 2010; Scoones, Will, and Grace, 2012). However, many states, including Nebraska, have adjusted this policy, however, to adhere to the federal standards of the Adam Walsh Act of 2006, by which offenders are to be classified by the type of crime committed, rather than the assessed risk to reoffend. The primary goal of this report is to compare the recidivism of sex offenders registered under the old and new system.

NEBRASKA'S PRE-ADAM WALSH ACT RISK ASSESSMENT

The Nebraska Sex Offender Registry Act became effective January 1, 1997 under Article 40, Section §29-4001 through Section §29-4013. Prior to the changes brought on by the Adam Walsh Act, Nebraska used a three-tiered notification system for sexual offenders. This system was informed by a psychological risk-assessment that predicted an offender's likelihood to reoffend or again participate in a sex crime. The risk assessment instrument placed convicted sex offenders into one of three tiers by classifying them across fourteen factors relevant to their risk to reoffend. These factors included considerations such as the number of past charges and convictions for sex offenses, age of arrest for first sex offense, relationship to the victim, gender of the victim, age of the victim, and mental health diagnosis.

Based on the summary score emerging from this risk assessment, offenders were placed into one of three tiers. Offenders assessed as most likely to reoffend were placed in Level 3, and their photos and addresses were listed on the Nebraska State Patrol's website. Offenders assessed as a moderate risk to reoffend were placed in Level 2. These Level 2 offenders were not listed on the public website, however, schools, daycare centers, religious organizations, youth organizations, and law enforcement agencies in the registrant's county of residence were notified. Finally, sex offenders assessed as a low risk to reoffend were placed in Level 1. These registrants were not listed on the public website, but the state notified local law enforcement agencies likely to encounter the offender for the purposes of monitoring and investigations (Sample, Evans, and Anderson 2011). In other words, the list of those sex offenders considered to be of the lowest risk was not made public and was only for the private use of law enforcement. Under this system, a majority of registrants were not on the Internet and were not on a public registry

because they did not meet the criteria for being a significant danger to the public. Under this law, offenders were required to register for 10 years or for life.

NEBRASKA'S POST-ADAM WALSH ACT SEX OFFENDER REGISTRY

The current law, LB 285 passed on May 29, 2009, abandoned psychological assessments in favor of rankings based solely on the type and seriousness of the crime of which they were convicted. The change implemented a requirement that all registered sex offenders would be listed on the public, online list, regardless of estimated risk to reoffend. According to the Nebraska State Patrol's registry website, "the classification or 'risk levels' will no longer be used and all registered sex offenders will be categorized by registration duration." In the old system, someone was placed on the registry for either ten years or for life. The new rules set timeframes at 15 years, 25 years, or life.

Most important for the current research, *the Adam Walsh tier system does not classify offenders based on individualized assessments of risk for reoffending, but rather by the type of crime committed by the offender.* Offenders convicted of what would generally be considered a misdemeanor sex offense are required to register for 15 years. A 25-year registration is required of sex offenders convicted of non-aggravated felony offenses such as "attempt" or "conspiracy". The life-time registration is required of sex offenders convicted of aggravated felony offenses such as those that included force, a drugged victim, a disabled victim, and/or a victim under the age of 13.

The changes in Nebraska were part of a national trend resulting from a federal law known as the Adam Walsh Child Protection and Safety Act of 2006, signed by President George W. Bush (also known as the Sex Offender Registration and Notification Act, or SORNA). Congress aimed to create uniform reporting standards for states feeding information into a national sex offender registry. It also broadened the definitions of what constituted a sex crime and made it a federal offense for sex offenders to fail to update information about their whereabouts and employment to local law enforcement.

RESEARCH ON SEX OFFENDER RECIDIVISM

Nebraska Statute Article 40, Section §29-4002 states, "The Legislature finds that sex offenders present a high risk to commit repeat offenses," but recent research evidence suggests that this is not the case for most sex offenders. Research on sex offender recidivism produces mixed results, but generally finds that sex offenders are no more likely than their non-sex offending counterparts to reoffend with a sex crime over another type of crime (Caldwell 2002; Vandiver 2006; Zimring et al. 2007, 2009).

Research suggests that most sex offenders do not reoffend sexually over time. For example, a sample of 4,724 sex offenders in Canada reported overall sex crime recidivism rates of 14% after 5 years, 20% after 10 years, and 24% after 15 years

(Harris and Hanson 2004). A recent study examines sexual offending in a cohort of 411 South London males followed to age 50 (Piquero et al. 2012). Sex offending in this cohort was rare. Although 41% of the males had been convicted of a crime by age 50, only 2.5% of the men had been convicted of a sex offense. Four of the men committed sex offenses as juveniles, and none of these boys recidivated in adulthood. Hence, this birth cohort research suggests that there is no evidence that sex offending as a juvenile predicts sex offending as an adult. Regarding adult offending, of the 10 men convicted for a sex offense as an adult, seven were convicted of only the one offense and three were convicted of two offenses each.

A number of reviews of sex offender research have been conducted. For example, a meta-analysis involving 61 studies and over 29,000 sex offenders found an aggregate sexual offense recidivism rate of 13.4% over 4 to 5 years (Hanson and Bussière 1998). A follow-up conducted seven years later included 82 studies and found a similar re-arrest rate (Hanson and Morton-Bourgon 2005). Finally, a review of eight studies of sex offense recidivism concludes, “the totality of the evidence supports the hypothesis that juvenile sex offenders offend more frequently over the life-course than juvenile non-sex offenders; however, the offending is not specific to sexual offenses” (Reingle 2012:430). In other words, sex offenders may reoffend, but these crimes are likely to be of a variety of types. Just like any other offender, sex offenders appear to be *generalists* in their commission of crimes, *not specialists*.

RESEARCH COMPARING RISK ASSESSMENTS TO ADAM WALSH CLASSIFICATION

A recent research project funded by the National Institute of Justice undertook a four-state study to compare the nationally recommended Adam Walsh Act classification tiers to risk assessments used by states prior to the passage of the Adam Walsh Act (Zgoba et al. 2012). The researchers randomly selected formerly incarcerated sex offenders from each of four states: New Jersey, Minnesota, Florida, and South Carolina. The final sample size was 1,789 offenders.

This study confirmed that sex offenders *are not specialists in their offending*. Whereas two-thirds of the offenders had prior involvement in the criminal justice system, the majority of offenders had no prior conviction for a sexual crime. The overall recidivism rate for the sample was 5.1% over five years (ranging from a low of 3.5% in NJ and a high of 7.0% in MN) and 10.3% over ten years (ranging from a low of 7.0% in SC to a high of 13.7% in FL). The doubling between 5 and 10 years, when evidence shows that sex crime recidivism tends to drop as offenders age, is possibly due to the effects of formal supervision such as parole (Zgoba et al. 2012).

Overall, the findings of this four-state study *clearly indicate that state risk levels are more accurate than the Adam Walsh Act tiers for predicting recidivism* (Zgoba et al. 2012). The researchers examined the association between state and Adam Walsh Act tier designations and the 10-year recidivism rate of offenders. The higher the state assigned tier, the higher the recidivism rate. In other words, offenders classified as Tier 1 low-risk offenders had lower recidivism than offenders classified

as Tier 2 medium-risk offenders. Similarly, the recidivism of Tier 2 offenders was lower than that of Tier 3 high-risk offenders.

In contrast, the Adam Walsh Act tiers were negatively related to recidivism.¹ The Adam Walsh Act Tier 3 (composed of offenders committing the most serious offenses) was associated with lower odds of sexual recidivism as compared to Tier 2. More specifically, the higher Adam Walsh Act tier was not significantly related to recidivism in New Jersey, Minnesota, or South Carolina, and it was actually *inversely* related to recidivism in Florida. These findings are consistent with research conducted in New York, where Adam Walsh Act tiers also proved ineffective in predicting recidivism (Freeman and Sandler 2009).

REGISTERED SEX OFFENDERS IN NEBRASKA: FULL REGISTRY

Data collection and data challenges. Data for the project was collected from three sources: 1) Nebraska's Sex Offender Registry database, 2) the Nebraska State Patrol Criminal History Database (PCH), and an FBI nationwide criminal records search. Data extraction from each source involved a number of challenges. The registry database lacked clarity and completeness regarding the timing of offenses, incarceration, and release to the community. Consequently, in many cases it was impossible to discern if a charge was related to the act that resulted in registration or a new charge that occurred after registration and release to the community. Also, the data often included arrest information, but did not include a court disposition, so researchers could not determine if the individual had been convicted of a subsequent sex offense. One solution was to search the PCH database. If information on the disposition was not available in the PCH database, State Patrol staff at the Nebraska Information Analysis Center (NIAC) facility manually pulled the file and contacted the local courts to retrieve the disposition information. Given staff and time limitations, this procedure was not possible for all cases with open dispositions. Finally, the FBI data presented substantial challenges in sorting through national recidivism data, as the FBI files included all persons with similar aliases. Consequently, for many individuals in the registry, research staff had to sort through dozens and dozens of paper files or digital files to match the Nebraska registrant to national criminal record files.

Demographics and offender characteristics. A summary of demographics and offender characteristics of all persons in Nebraska's sex offender registry database is found in Table 1. Overall, the sample includes nearly 6500 individuals. The amount of data available for each variable differs, however, for a number of reasons. In particular, much of the data in these tables originates from the risk assessment that is no longer administered to individuals required to register in Nebraska.

¹ Because their sample included only those offenders who had been incarcerated, less than 1% of their sample fell into the Tier 1 category, which generally includes only misdemeanor offenses that would not result in prison time. Consequently, the primary focus is on comparing recidivism of Tier 2 versus Tier 3 offenders.

Registered offenders in Nebraska are predominantly white (85%), followed by black (11%) and Native American (3.2%). In addition to race, offenders are asked if they are of Hispanic descent, and Hispanic ethnicity is claimed by just over 10% of the registrants. The registered offenders are overwhelmingly male (96.3%). About 45% were under age 25 at the time of their arrest and about 55% were age 26 or over.

Some information is available regarding the preponderance of mental health disorders among registered sex offenders in Nebraska. However, registrants are not uniformly screened for mental illnesses, so this data on mental illness does not reflect a comprehensive mental health assessment. The data that is available indicates that a small percentage of registrants display mental disorders. The highest percentage of offenders were coded affirmative for the category "Personality Disorder Diagnosis or Traits" (8.3%). In summary, the information available to us indicates that the majority of Nebraska registrants do not suffer from mental illness.

Table 1 also includes information on registrants' most recent risk-level classification for pre-Adam Walsh Act cases. Level-1 offenders were assessed as the least likely to commit a subsequent sex offense, Level-2 offenders were assessed as a moderate risk, and Level-3 offenders were assessed as a high risk to recidivate. According to the data, over half of the registrants were classified as Level-1. An additional 32% of registrants were classified as a moderate risk to reoffend (Level 2) and about 17% were assessed as a low risk to reoffend (Level 1). Under the pre-Adam Walsh Act system, only Level 3 offenders were placed on the public registry, so this data suggests that *a move to the Adam Walsh Act notification system essentially doubles the number of offenders placed on the public registry in Nebraska.*

Finally, Table 1 lists the Adam Walsh Act registration duration for 5158 registrants. Offenders convicted of what would generally be considered a misdemeanor sex offense are required to register for 15 years. A 25-year registration is required of sex offenders convicted of non-aggravated felony offense and lifetime registration is required of sex offenders convicted of aggravated felony offenses. The Nebraska data indicate that about 18% of offenders are 15-year registrants, about 30% are 25-year registrants, and over 50% are lifetime registrants.

One question is how these data compared to other states. Recent data in the literature on the distribution of registrants across Adam Walsh Act tiers includes only offenders who have been incarcerated, which effectively excludes Tier 1 offenders that committed only misdemeanors. In making interstate comparisons, then, we must examine how many felony registrants in Nebraska are classified as Tier 3 offenders versus Tier 2 offenders. Excluding the misdemeanor offenders gives us a total of 4222 registrants, of which 63% are Tier 3 registrants and 37% are Tier 2 registrants. The percentage of Tier 3 offenders in four other states is as follows: New Jersey, 98%; Minnesota, 85%, South Carolina 57%, and Florida 56% (Zgoba et al. 2012). Consequently, *the percentage of Tier 3, lifetime registrants in Nebraska falls toward the lower range in this comparison to four other states.*

TABLE 1. DEMOGRAPHICS AND OFFENDER CHARACTERISTICS

| | | | | | |
|---|---------------|---------------|---------------|-----------------|----------|
| Race | White | Black | Asian | Native American | Other |
| | 5474 85.0% | 711 11.0% | 45 1% | 209 3.2% | 1 --- |
| Ethnicity | Hispanic | Not Hispanic | | | |
| | 685 10.8% | 5654 89.2% | | | |
| Sex | Male | Female | | | |
| | 6207 96.3% | 238 3.7% | | | |
| Age at arrest | 25 or under | 26 or over | Unknown | | |
| | 2501 44.8% | 3056 54.7% | 26 0.5% | | |
| Developmental disability | Yes | No | | | |
| | 52 1.2% | 4164 98.8% | | | |
| Psychotic disorder | Yes | No | | | |
| | 53 1.3% | 416 98.7% | | | |
| Personality disorder | Yes | No | | | |
| | 351 8.3% | 3898 91.7% | | | |
| Risk level (pre-Adam Walsh) | 1 | 2 | 3 | | |
| | 628 16.8% | 1193 32.0% | 1909 51.2% | | |
| Registration duration (Adam Walsh) | 15 | 25 | Life | | |
| | 936 18.1% | 1561 30.3% | 2661 51.6% | | |

Victim and offense characteristics. A summary of victim and offense characteristics is presented in Table 2. The source of the data in this table is the risk assessment instrument, so this data might not be omitted for more recent registrants under the Adam Walsh Act. The top of this table shows that over 70% of Nebraska registrants had only one count for the offense that resulted in their registration. About 19% had two counts and about 11% had three or more counts.

Victims were classified as a family member, an acquaintance, or a stranger. Because the offense might have included more than one victim, more than one category could apply (for instance, an offense involving the victimization of a niece and the niece's friend could be classified as both "family member" and "acquaintance"). *The most common victim/offender relationship was an acquaintance (56.1%).* The second most common victim was a family member (34.4%). The least likely victim was a stranger (16.8%). Consequently, *if a primary purpose of sex offender notification and registries is to protect the public from strangers who are convicted sex offenders, then the current makeup of the Nebraska sex offender registry is at odds with this goal.* That being said, an offender with a history of victimizing persons known to them might offend against strangers in the future. In this sense, a tier system based on risk to reoffend would be more useful for protecting the public as compared to a system that includes all sex offenders on a public registry.

TABLE 2. VICTIM/OFFENSE CHARACTERISTICS

| | | | | |
|--------------------------|-------------------------|----------------------|-------------------------------|-----------------------|
| Counts | One 3981 70.6% | Two 1041 18.5% | Three or more 614 10.9% | |
| Type of Victim | | | | |
| Family member | Yes 1943 34.4% | No 3706 65.6% | | |
| Acquaintance | Yes 3166 56.1% | No 2482 43.9% | | |
| Stranger | Yes 949 16.8% | No 4698 83.2% | | |
| Gender | Female 4782 84.7% | Male 449 7.9% | Female & male 350 6.2% | Unknown 67 1.2% |
| Age 11 or under | Yes 2171 38.2% | No 3514 61.8% | | |
| Age 12 to 17 | Yes 3477 61.1% | No 2213 38.9% | | |
| Age 18 or over | Yes 972 17.2% | No 4695 82.8% | | |
| Type of Offense | | | | |
| Explicit material | Yes 417 7.4% | No 5242 92.6% | | |
| Fondling | Yes 5045 89.2% | No 611 10.8% | | |
| Threats | Yes 579 10.2% | No 5077 89.8% | | |
| Vulnerable victim | Yes 140 2.5% | No 5514 97.5% | | |
| Substance used | Yes 260 4.6% | No 5393 95.4% | | |
| Violence/weapon | Yes 1337 23.6% | No 4317 76.4% | | |
| Serious injury | Yes 60 1.1% | No 5592 98.9% | | |

Table 2 also includes information on the age of victims. Because an offense might have included multiple victims of varied ages, more than one category could apply. Just over 38% of offenders in the Nebraska registry had victims age 11 or under. The most common victim age (61.1%) was 12 to 17. Finally, 17.2% of registrants had victims that were 18 or over.

Finally, Table 2 includes descriptions of the offense. Multiple descriptions could describe a single offense (for example, an offense might have included both “fondling” and “threats”). By far, “fondling” was the most common, occurring in 89.2% of cases. Also, although violence and/or a weapon was used in 23.6% of cases, serious injury occurred in only 1.1% of cases. In this table, “vulnerable victim” refers to a victim that is vulnerable due to physical or mental abnormality.

Data summary. To summarize this analysis, the *typical offender* in the Nebraska sex offender registry is a white male over the age of 26. The *typical victim* is a female acquaintance, age 12 to 17. By far, the *most common type of offense was fondling*. For both the pre-LB 285 risk-based classification system and the post-LB 285 tier system based on offense severity, the most common tier classification (just over 50% in both cases) is Risk Level 3 or Tier 3, the most serious classification for each system. Although violence and/or a weapon was present in almost a quarter of the offenses, serious bodily injury was a rare event (1.1% of offenses).

REGISTERED SEX OFFENDERS IN NEBRASKA: ANALYZABLE SAMPLE CHARACTERISTICS

Data included in the subsequent analysis are a subset of the entire population of Nebraska registered sex offenders. Cases and data are missing for a number of reasons, such as moving out of state, death, deportation, and incomplete data on variables such as date of release into the community. In addition, a portion of data extracted by research assistants was not completed by the project staff deadline at the Nebraska State Patrol NIAC facility. Overall, the data analyzed is remarkably similar to the population of Nebraska’s registered sex offenders described above. One exception is registrants claiming Hispanic ethnicity, which is approximately 40% lower in the analyzed sample. Our hypothesis is that most of this difference is due to the deportation of sexual offenders who were not documented U.S. citizens.

A description of analyzed offenders’ demographics, mental health characteristics, and registry classifications is included in Table 3. The data in this table are provided for three groups: 1) the entire analyzable sample, 2) pre-Adam Walsh Act cases of offenders that were registered prior to January 1, 2010, and 3) post-Adam Walsh Act cases of offenders that were registered subsequent to January 1, 2010. The data in Table 3 suggest that the pre- and post-Adam Walsh Act registrants share similar characteristics, indicating that Nebraska’s sex offender registry has not changed significantly since 1997.

TABLE 3. DEMOGRAPHICS AND OFFENDER CHARACTERISTICS (CONTINUED ON NEXT PAGE)

| Race | White | Black | Asian | Native American | Other |
|---------------------------------|---------------|---------------|------------|-----------------|-----------|
| All | 2615 85.4% | 362 11.8% | 22 0.7% | 62 2.0% | 1 |
| Pre-Adam Walsh | 2416 85.0% | 345 12.1% | 20 0.7% | 60 2.1% | 0.1% |
| Post-Adam Walsh | 207 90% | 18 7.8% | 2 0.9% | 3 1.3% | 1 0.1% |
| Ethnicity | Hispanic | Not Hispanic | | | |
| All | 184 6.1% | 2810 93.9% | | | |
| Pre-Adam Walsh | 170 6.0% | 2605 93.9% | | | |
| Post-Adam Walsh | 15 6.6% | 214 93.4% | | | |
| Sex | Male | Female | | | |
| All | 2947 96.3% | 114 3.7% | | | |
| Pre-Adam Walsh | 2738 96.3% | 103 3.7% | | | |
| Post-Adam Walsh | 219 95.2% | 11 4.8% | | | |
| Age at arrest | 25 or under | 26 or over | | | |
| All | 1403 45.8% | 1659 54.2% | | | |
| Pre-Adam Walsh | 1293 45.5% | 1549 54.5% | | | |
| Post-Adam Walsh | 116 50.4% | 114 49.6% | | | |
| Developmental disability | Yes | No | | | |
| All | 26 1.1% | 2305 98.9% | | | |
| Pre-Adam Walsh | 24 1.0% | 2211 99.0% | | | |
| Post-Adam Walsh | 2 2% | 100 98% | | | |
| Psychotic disorder | Yes | No | | | |
| All | 33 1.4% | 2297 98.6% | | | |
| Pre-Adam Walsh | 33 1.5% | 2201 98.5% | | | |
| Post-Adam Walsh | 0 0% | 102 100% | | | |

| | | | | | |
|--|--------------|---------------|---------------|--|--|
| Personality disorder* | Yes | No | | | |
| All | 242 10.3% | 2110 89.7% | | | |
| Pre-Adam Walsh | 242 10.7% | 2014 89.3% | | | |
| Post-Adam Walsh | 2 2% | 100 98% | | | |
| Risk level (pre-Adam Walsh)* | 1 | 2 | 3 | | |
| All | 423 18.2% | 762 32.8% | 1140 49.0% | | |
| Pre-Adam Walsh | 422 18.3% | 755 32.8% | 1123 48.7% | | |
| Post-Adam Walsh | 22 68.8% | 8 25% | 1 3.2% | | |
| Registration duration (Adam Walsh)* | 15 | 25 | Life | | |
| All | 634 20.9% | 882 29.2% | 1512 49.9% | | |
| Pre-Adam Walsh | 569 20.2% | 796 28.3% | 1447 51.5% | | |
| Post-Adam Walsh | 65 28.8% | 90 39.8% | 71 31.4% | | |

* Percentages pre-/post-Adam Walsh are significantly different at $p < .05$.

Most offenders are white, non-Hispanic, males. The most common mental health disorder detected by registry staff is personality disorder (10.3%). The majority of registrants did not have a documented mental health disorder.

Table 4 includes victim and offense information. For most offenses, the victim was an acquaintance (56.9%), followed by family members (35.0%). The victim was a stranger in only 17% of offenses. The majority of victims are female (82.9%) and the most common victim ages are 12 to 17 years. The offense types are not mutually exclusive...the offense may have involved multiple types of acts. That being said, the vast majority of offenses included fondling (89.7%) and approximately one-quarter of offenses involved violence.

TABLE 4. VICTIM/OFFENSE CHARACTERISTICS

| | | | | |
|--------------------------|-------------------------|---------------------|-------------------------------|-----------------------|
| Counts | One 2097 70.2% | Two 560 18.7% | Three or more 332 11.1% | |
| Type of Victim | | | | |
| Family member | Yes 1042 35.0% | No 1933 65.0% | | |
| Acquaintance | Yes 1691 56.9% | No 1282 43.1% | | |
| Stranger | Yes 508 17.1% | No 2466 82.9% | | |
| Gender | Female 2497 83.9% | Male 228 7.7% | Female & male 201 6.8% | Unknown 48 1.6% |
| Age 11 or under | Yes 1156 38.7% | No 1834 61.3% | | |
| Age 12 to 17 | Yes 1841 61.5% | No 1152 38.5% | | |
| Age 18 or over | Yes 532 17.8% | No 2459 82.2% | | |
| Type of Offense | | | | |
| Explicit material | Yes 223 7.5% | No 2759 92.5% | | |
| Fondling | Yes 2666 89.4% | No 316 10.6% | | |
| Threats | Yes 315 10.6% | No 2667 89.4% | | |
| Vulnerable victim | Yes 77 2.6% | No 2902 97.4% | | |
| Substance used | Yes 139 4.7% | No 2842 95.3% | | |
| Violence/weapon | Yes 717 24.1% | No 2264 75.9% | | |
| Serious injury | Yes 34 1.1% | No 2946 98.9% | | |

REGISTERED SEX OFFENDERS IN NEBRASKA: RECIDIVISM

For the purpose of this study, “recidivism” is defined as a criminal conviction for a new sex offense that requires the offender to register with the Nebraska Sex Offender Registry. A list of crimes that require a person to register may be found in the FAQ section of the Nebraska Sex Offender Registry website.

A primary goal of the research project is to compare rates of recidivism for individuals placed on the registry under the risk-level system implemented on January 1, 1997 to those placed on the registry under the system adopted on May 29, 2009 under LB 285, which utilizes the tier system of the federal Adam Walsh Act. Prior to the changes brought on by the Adam Walsh Act, Nebraska used a three-tiered notification system for sexual offenders. This system was informed by a psychological risk-assessment that predicted an offender’s likelihood to reoffend or again participate in a sex crime. The risk assessment instrument placed convicted sex offenders into one of three tiers by classifying them across fourteen factors relevant to their risk to reoffend. These factors included the number of past charges and convictions for sex offenses, age of arrest for first sex offense, relationship to the victim, gender of the victim, age of the victim, and mental health considerations.

Based on the summary score emerging from this risk assessment, offenders were placed into one of three tiers. Offenders assessed as most likely to reoffend were placed in Level 3, and their photos and addresses were listed on the Nebraska State Patrol’s website. Offenders assessed as a moderate risk to reoffend were placed in Level 2. These Level 2 offenders were not listed on the public website, however, schools, daycare centers, religious organizations, youth organizations, and law enforcement agencies in the registrant’s county of residence were notified. Finally, sex offenders assessed as a low risk to reoffender were placed in Level 1. These registrants were not listed on the public website, but the state notified local law enforcement agencies likely to encounter the offender for the purposes of monitoring and investigations (Sample, Evans, and Anderson 2011). Under this system, a majority of registrants were not on the Internet and were not on a public registry because they did not meet the criteria for being a significant danger to the public. Under this law, offenders were required to register for 10 years or for life.

LB 285 abandoned psychological assessments in favor of rankings based solely on the type and seriousness of the crime of which they were convicted. The change implemented a requirement that all registered sex offenders would be listed on the public, online list, regardless of estimated risk to reoffend. In the old system, someone was placed on the registry for either ten years or for life. The new rules set timeframes at 15 years, 25 years, or life. The Adam Walsh tier system does not classify offenders based on individualized assessments of risk for reoffending, but rather by the type of crime committed by the offender. Offenders convicted of what would generally be considered a misdemeanor sex offense are required to register for 15 years. A 25-year registration is required of sex offenders convicted of non-aggravated felony offenses such as “attempt” or “conspiracy”. The life-time

registration is required of sex offenders convicted of aggravated felony offenses such as those that included force, a drugged victim, a disabled victim, and/or a victim under the age of 13.

Caveats. We believe that overall sex offense recidivism is underestimated for a number of reasons. First, data from the 2010 National Crime Victimization Survey conducted by the Bureau of Justice Statistics suggests that only about half of all sexual assaults against persons 12 or older were reported to law enforcement (U.S. Department of Justice 2011). Second, the Bureau of Justice Statistics reports that more than half of state criminal justice system repositories have arrest and disposition data entry backlogs. Up to 40% of arrest records have no final court disposition recorded and when final court dispositions are received, they cannot always be matched to arrest records (Bureau of Justice Statistics 2011). Because the FBI recidivism data included in this project stems from these state repositories, our recidivism data is underestimated as a result. As reported above, we also encountered these difficulties with Nebraska's PCH database.

The primary downside of underestimated recidivism is that we do not know the extent of the underestimation. Consequently, we cannot say with certainty just how many registered sex offenders in Nebraska commit a new sex offense while registered. However, there is little reason to believe that shortcomings in state criminal justice repositories and underreporting of sex offenses impacts one group of sex offenders differently than another. In other words, recidivism is underestimated for both pre- and post-Adam Walsh Act registrants, so *although we might not know the absolute rates of recidivism, we can make a relative comparison of rates of recidivism before and after the enactment of LB 285.*

Measurement. Overall recidivism is examined across all cases. This measure does not take into consideration the amount of time that registrants have spent in the community. We believe that this is important information to be considered in assessing the registry system as a whole. Moreover, it allows an examination of factors that are related to recidivism among Nebraska registrants. However, *because most offenders placed on the registry under the pre-LB 285 system had substantially more time in the community, their opportunity to recidivate is much greater than offenders placed on the registry under LB 285. Consequently, comparing overall recidivism between the two groups does not provide a true comparison of the efficacy of each system in preventing new sex offenses.* In an effort to allow fair comparisons across the two systems, we also compare recidivism that occurred within two years of release in the community and recidivism that occurred within one year of release in the community, equalizing the time-at-risk to recidivate.

Findings. Table 5 and Figure 1 include the rates of overall recidivism, 2-year recidivism, and 1-year recidivism. Overall, 5.7% of registered sex offenders placed on the registry between January 1, 1997 and December 31, 2009 (for those whom we had data) committed at least one new sex offense. Additionally, 1.7% committed a new sex offense within 2-years of release into the community and 0.6% committed

a new offense within 1-year of release into the community. Table 6 and Figure 2 include the comparison data for the post-Adam Walsh Act registrants. In this group, 2.6% committed a new sex offense. All of these offenses occurred within two years of release, so the 2-year recidivism rate is also 2.6%, which is a recidivism rate 53% higher than the pre-Adam Walsh Act registrants (2.6%-1.7%/1.7%). The 1-year recidivism rate is 1.7%, which is a recidivism rate 183% higher than the pre-Adam Walsh Act registrants (1.7%-0.6%/0.6%). Due to the smaller number of individuals in Table 6, however, these comparisons should be taken with a grain of salt, as these recidivism rates are based on just 4 to 6 cases of recidivism.

In order to assess the validity of our data and in order to compare sex offender recidivism in Nebraska to that of other states, we include rates of recidivism from four other states that were part of a study supported by the National Institute of Justice (NIJ). This study utilized a 5-year window for recidivism, so our rates cannot be compared directly. However, the 5-year rates give us an idea of how recidivism in Nebraska compares to other states. The data in Table 7 and Figure 3 display an average 5-year recidivism rate across 4 states of 5.1%, which is lower than Nebraska's overall rate, but higher than Nebraska's 2-year recidivism rates. There is substantial variation across the four states, as Minnesota's rate of 7.0% is twice as high as New Jersey's recidivism rate of 3.5% (Zgoba et al. 2012).

Looking only at the rates of recidivism in Tables 5 and 6, a tentative conclusion based on the 2-year and 1-year recidivism rates is that *the pre-LB 285 risk assessment-based registry resulted in less recidivism than the post-LB28 offense severity-based registry.*

TABLE 5. PRE-ADAM WALSH RECIDIVISM: REGISTERED OFFENDERS WITH NEW SEX OFFENSES

| | Number | Percent Recidivating | Missing Data |
|--|-------------|----------------------|--------------|
| Number of registered offenders with any registerable sex offense recidivism | 162 of 2832 | 5.7% | |
| Number of registered offenders with registerable sex offense recidivism <i>within two years of placement on registry</i> | 48 of 2816 | 1.7% | 16 |
| Number of registered offenders with registerable sex offense recidivism <i>within one year of placement on registry</i> | 18 of 2809 | 0.6% | 23 |

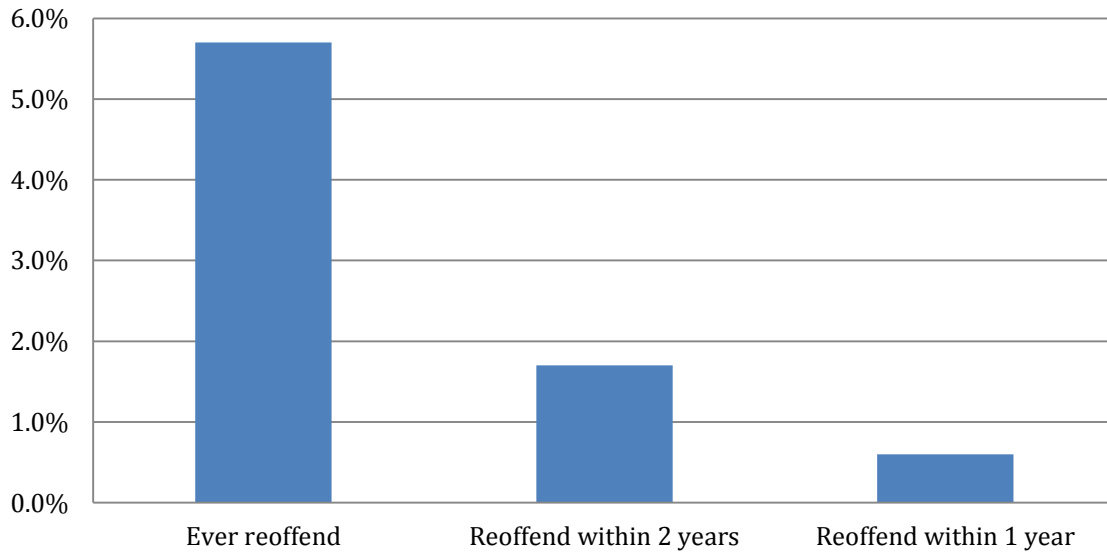
FIGURE 1. PRE-ADAM WALSH RECIDIVISM: REGISTERED OFFENDERS WITH NEW SEX OFFENSES

TABLE 6. POST-ADAM WALSH RECIDIVISM: REGISTERED OFFENDERS WITH NEW SEX OFFENSES

| | Number | Percent Recidivating |
|--|----------|----------------------|
| Number of registered offenders with any registerable sex offense recidivism | 6 of 230 | 2.6% |
| Number of registered offenders with registerable sex offense recidivism <i>within two years of placement on registry</i> | 6 of 230 | 2.6% |
| Number of registered offenders with registerable sex offense recidivism <i>within one year of placement on registry</i> | 4 of 230 | 1.7% |

FIGURE 2. POST-ADAM WALSH RECIDIVISM: REGISTERED OFFENDERS WITH NEW SEX OFFENSES

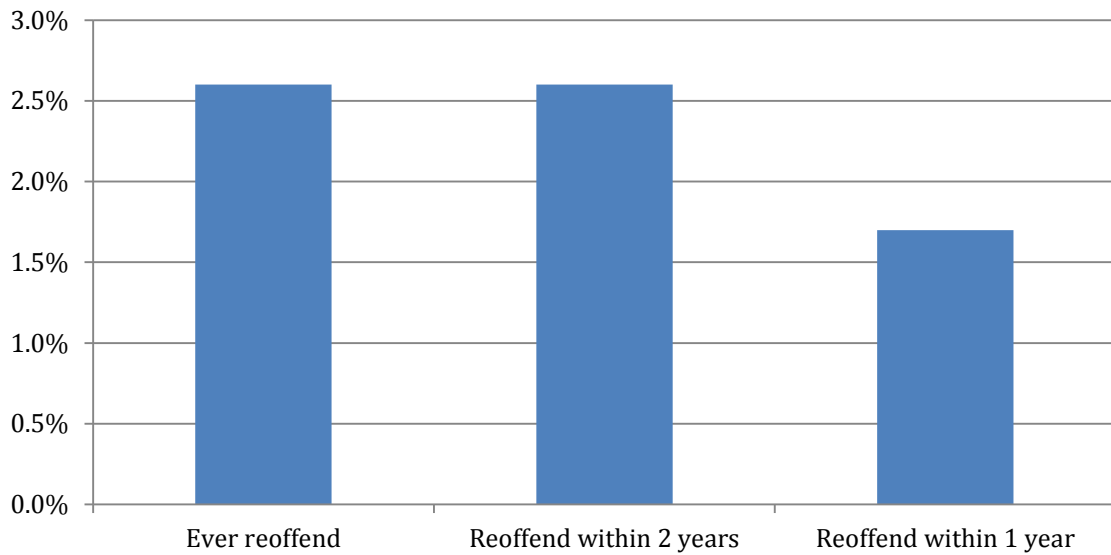
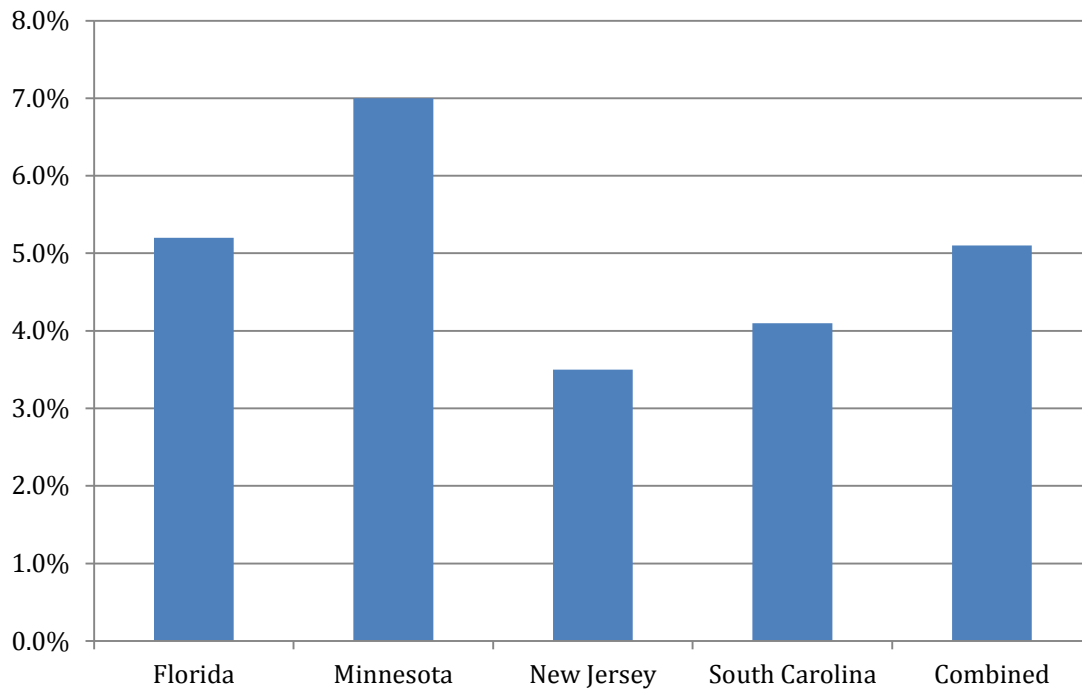


TABLE 7. COMPARISON OF NEBRASKA RECIDIVISM TO OTHER STATES

| | Florida | Minnesota | New Jersey | South Carolina | Combined |
|--|-------------|-------------|-------------|----------------|---------------|
| Five-year Sexual Reoffending Rates by State | 5.2% | 7.0% | 3.5% | 4.1% | 5.1% |
| | (25 of 477) | (35 of 498) | (10 of 288) | (20 of 488) | (153 of 1489) |

SOURCE: Zgoba et al. 2012

FIGURE 3. COMPARISON OF NEBRASKA RECIDIVISM TO OTHER STATES



Risk Levels and AWA Tiers: Efficacy for Predicting Risk to Reoffend. The next step of the analysis was to break down rates of recidivism by Risk Level for the pre-LB 285 registrants and by Adam Walsh Act Tier Level for the post-LB 285 registrants. As a reminder, the pre-Adam Walsh Act classification system was informed by a psychological risk-assessment that predicted an offender's likelihood to reoffend. The risk assessment instrument placed convicted sex offenders into one of three tiers by classifying them across fourteen factors relevant to their risk to reoffend. In contrast, the Adam Walsh Act Tier system does not classify offenders by estimated risk to reoffend, but by the type/severity of crime committed by the offender. Offenders convicted of what would generally be considered a misdemeanor sex offense are classified as Tier 1 and required to register for 15 years. A 25-year registration is required of sex offenders convicted of non-aggravated felony offenses such as "attempt" or "conspiracy". These offenders are classified as Tier 2. Finally, lifetime registration is required of Tier 3 sex offenders convicted of aggravated felony offenses such as those that included force, a drugged victim, a disabled victim, and/or a victim under the age of 13.

Within our sample, we have data on assigned risk levels for 2294 individuals. Of these registrants, 48.7% were currently classified at the highest risk level (Level 3).² An additional 33% of registrants were assigned Risk Level 2, or medium risk to reoffend. The remaining registrants, 18.3%, were assigned the lowest risk level (Level 1). Table 8 and Figure 4 present the overall recidivism of Nebraska registered sex offenders by pre-LB 285 risk levels. Recidivism rates are what we would expect from a valid instrument for predicting risk for recidivism: Level 3 offenders had the highest rate of recidivism (9%), Level 2 offenders had a much lower rate of recidivism (2.5%) and Level 1 offenders had the lowest level of recidivism (2.1%). The pattern is not as consistent, however, for 2-year recidivism. As Table 9 and Figure 5 indicate, Level 2 offenders had lower rates of 2-year recidivism (0.4%) than Level 1 offenders (0.5%). Finally, Table 10 and Figure 6 display 1-year recidivism by risk level, and the pattern is as we would expect. *Overall, then, this system of classification based on a psychological risk-assessment performs well in predicting sex offense recidivism.* The one aberration from the predicted pattern is for 2-year recidivism and this result is based on only a small number of offenders. Finally, Chi-Square statistical tests indicate that the rates of recidivism across risk levels are statistically different, suggesting that the observed patterns are highly unlikely to be due to chance.

² Classification of risk level could change based on appeals due to factors such as new evidence about the offense. In our analysis, we classify the registrants by the risk level they were assigned at the time of data extraction, which should correspond to their assigned risk level at January 1, 2010.

TABLE 8. SEXUAL REOFFENDING OF PRE-ADAM WALSH CASES BY RISK LEVEL: EVER REOFFEND

| | Number | Percent Recidivating |
|---|-------------|----------------------|
| Risk Level 3 highest risk to reoffend | 101 of 1118 | 9.0% |
| Risk Level 2 medium risk to reoffend | 19 of 754 | 2.5% |
| Risk Level 1 lowest risk to reoffend | 9 of 422 | 2.1% |

NOTE: Differences in recidivism across Risk Levels are significant at $p < .001$.

**FIGURE 4. SEXUAL REOFFENDING OF PRE-ADAM WALSH CASES BY RISK LEVEL:
EVER REOFFEND**

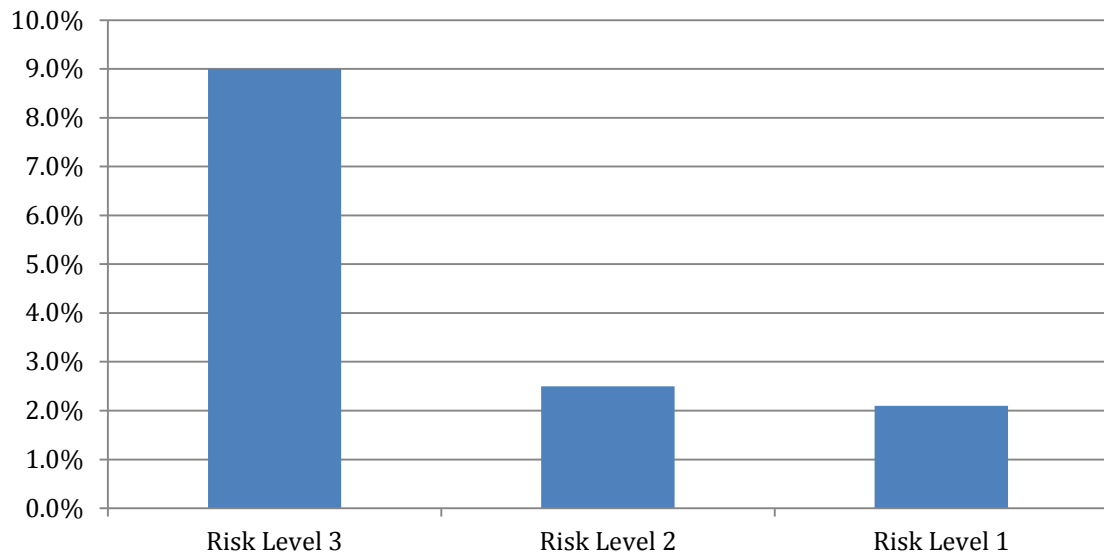


TABLE 9. SEXUAL REOFFENDING OF PRE-ADAM WALSH CASES BY RISK LEVEL: 2-YEARS

| | Number | Percent Recidivating |
|---|------------|----------------------|
| Risk Level 3 highest risk to reoffend | 31 of 1112 | 2.8% |
| Risk Level 2 medium risk to reoffend | 3 of 752 | 0.4% |
| Risk Level 1 lowest risk to reoffend | 2 of 419 | 0.5% |

NOTE: Differences in recidivism across Risk Levels are significant at $p < .001$.

**FIGURE 5. SEXUAL REOFFENDING OF PRE-ADAM WALSH CASES BY RISK LEVEL:
2-YEARS**

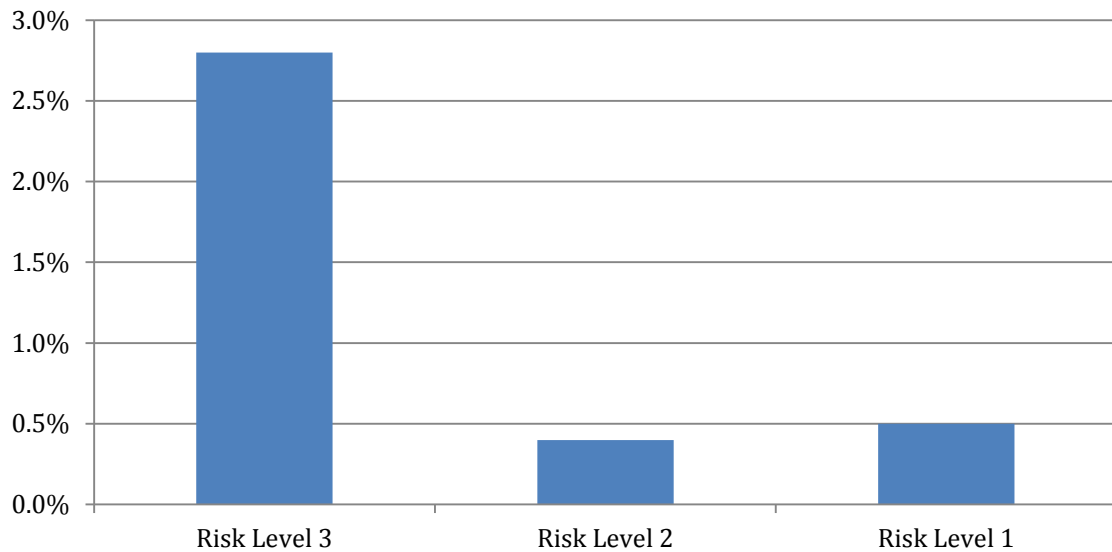
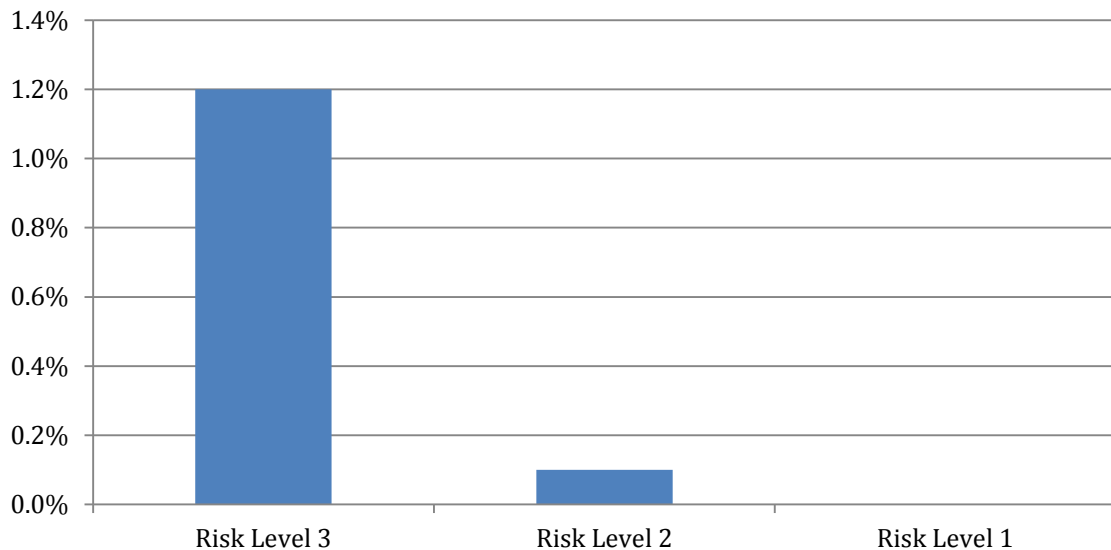


TABLE 10. SEXUAL REOFFENDING OF PRE-ADAM WALSH CASES BY RISK LEVEL: 1-YEAR

| | Number | Percent Recidivating |
|---|------------|----------------------|
| Risk Level 3 highest risk to reoffend | 13 of 1108 | 1.2% |
| Risk Level 2 medium risk to reoffend | 1 of 751 | 0.1% |
| Risk Level 1 lowest risk to reoffend | 0 of 419 | 0.0% |

NOTE: Differences in recidivism across Risk Levels are significant at $p = .011$.

**FIGURE 6. SEXUAL REOFFENDING OF PRE-ADAM WALSH CASES BY RISK LEVEL:
1-YEAR**



All registered sex offenders are classified by Adam Walsh Act Tiers, regardless of the start date of their registry. In other words, registered offenders placed on the registry both before and after the passage of the Adam Walsh Act and LB 285 are assigned an AWA Tier.³ Of the 3028 individuals in our sample with AWA Tiers, 49.9% were assigned the most serious tier (Tier 3), an additional 29.1% were assigned Tier 2 (medium seriousness) and a final 21.0% were assigned Tier 1 (the least serious tier). These overall percentages differ only slightly from the distribution across the previous risk system.

³ However, the opposite is not true. After the passage of LB 285, new registrants were not administered the psychological risk assessment, so these offenders were not assigned Risk Levels. Consequently, for most of the cases placed on the registry after January 1, 2010 we do not have information on the offenders that was collected by the risk assessment.

Table 11 and Figure 7 display overall recidivism across AWA Tiers. The vast majority of recidivism is found among Tier 3 offenders (12.3%). All other offenders have a recidivism rate of less than 1%. Additionally, we do not see a consistent “stair-step” pattern of less recidivism among offenders in less serious tiers. In contrast, Tier 1 offenders have an overall recidivism rate nearly double that of Tier 2 offenders.

Table 12 and Figure 8 present the 2-year recidivism rates across AWA Tier Levels. The same pattern is observed. The majority of recidivism is by Tier 3 offenders and Tier 1 offenders have triple the recidivism rate (0.6%) of Tier 2 offenders (0.2%).

Finally, Table 13 and Figure 9 present 1-year recidivism across AWA Tier Levels. Again, Tier 1 offenders committed the majority of recidivism and Tier 1 offenders have triple the recidivism rate (0.3%) as Tier 2 offenders (0.1%).⁴ Similar to the risk levels, Chi-Square statistical tests indicate that the rates of recidivism across severity tiers are statistically different, suggesting that the observed patterns are highly unlikely to be due to chance.

In order to compare these Nebraska findings to those of other states, 5-year sex offender recidivism data by AWA Tiers is presented for Florida, Minnesota, New Jersey, and South Carolina in Table 14 and Figure 10. This table and figure do not include information on Tier 1 registrants because the Zgoba et al. (2012) study does not include misdemeanor offenders that would be so classified. *The most interesting finding in Table 14 is that Tier 3 registrants do not dominate recidivism in a similar way to the Nebraska data.* In contrast, in Florida, the Tier 3 recidivism rate is much lower than that of Tier 2 registrants. In South Carolina, the rates are the same across the two tiers. In Minnesota, the Tier 3 offenders have only a slightly higher rate of recidivism. Finally, in New Jersey, the recidivism of Tier 3 offenders is higher, but their Tier 2 offenders had zero recidivism and the recidivism of their Tier 3 offenders is only about 25% of that found in Nebraska.

⁴ Similar to other reporting findings, these comparisons should be viewed with caution due to the extremely low rate of recidivism in the groups being compared.

TABLE 11. SEXUAL REOFFENDING BY ADAM WALSH ACT TIER LEVELS: EVER REOFFEND

| | Number | Percent Recidivating |
|---|-------------|----------------------|
| Tier 3 most serious offenses | 186 of 1512 | 12.3% |
| Tier 2 | 4 of 882 | 0.5% |
| Tier 1 least serious offenses | 6 of 634 | 0.9% |

NOTE: Differences in recidivism across Tiers are significant at $p < .001$.

**FIGURE 7. SEXUAL REOFFENDING BY ADAM WALSH ACT TIER LEVELS:
EVER REOFFEND**

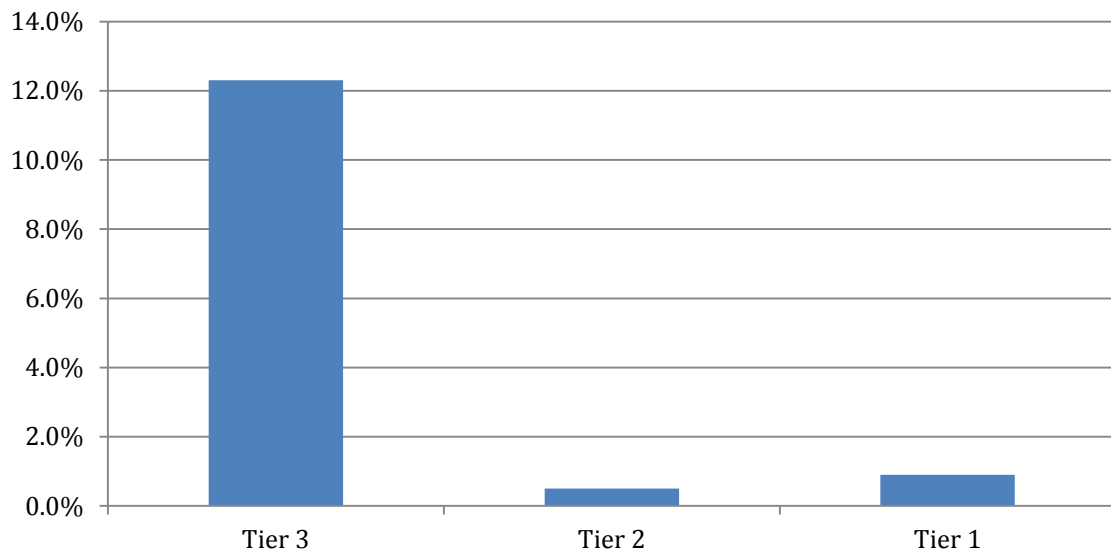


TABLE 12. SEXUAL REOFFENDING BY ADAM WALSH ACT TIER LEVELS: 2-YEARS

| | Number | Percent Recidivating |
|---|------------|----------------------|
| Tier 3 most serious offenses | 50 of 1496 | 3.3% |
| Tier 2 | 2 of 882 | 0.2% |
| Tier 1 least serious offenses | 4 of 633 | 0.6% |

NOTE: Differences in recidivism across Tiers are significant at $p < .001$.

**FIGURE 8. SEXUAL REOFFENDING BY ADAM WALSH ACT TIER LEVELS:
2-YEARS**

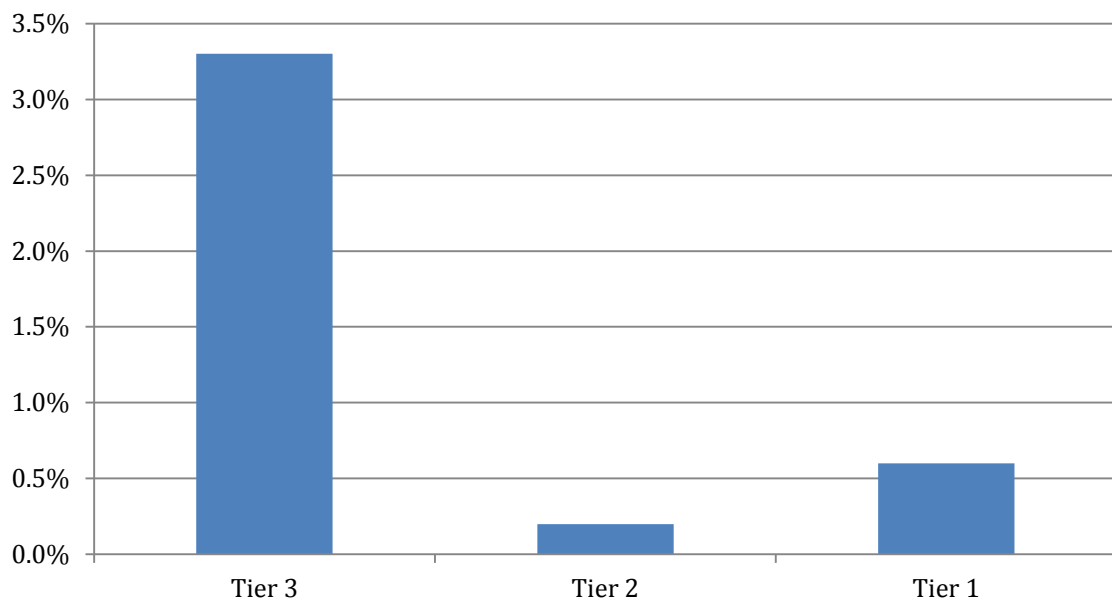


TABLE 13. SEXUAL REOFFENDING BY ADAM WALSH ACT TIER LEVELS: 1-YEAR

| | Number | Percent Recidivating |
|---|------------|----------------------|
| Tier 3 most serious offenses | 18 of 1491 | 1.2% |
| Tier 2 | 1 of 881 | 0.1% |
| Tier 1 least serious offenses | 2 of 632 | 0.3% |

NOTE: Differences in recidivism across Tiers are significant at $p = .010$.

FIGURE 9. SEXUAL REOFFENDING BY ADAM WALSH ACT TIER LEVELS: 1-YEAR

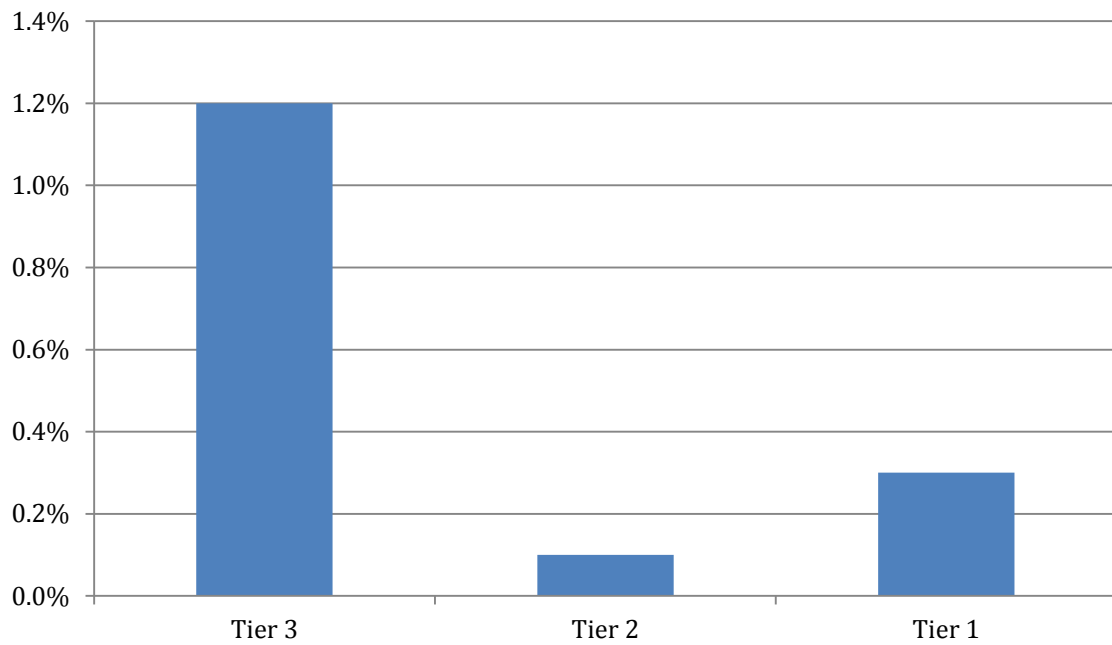
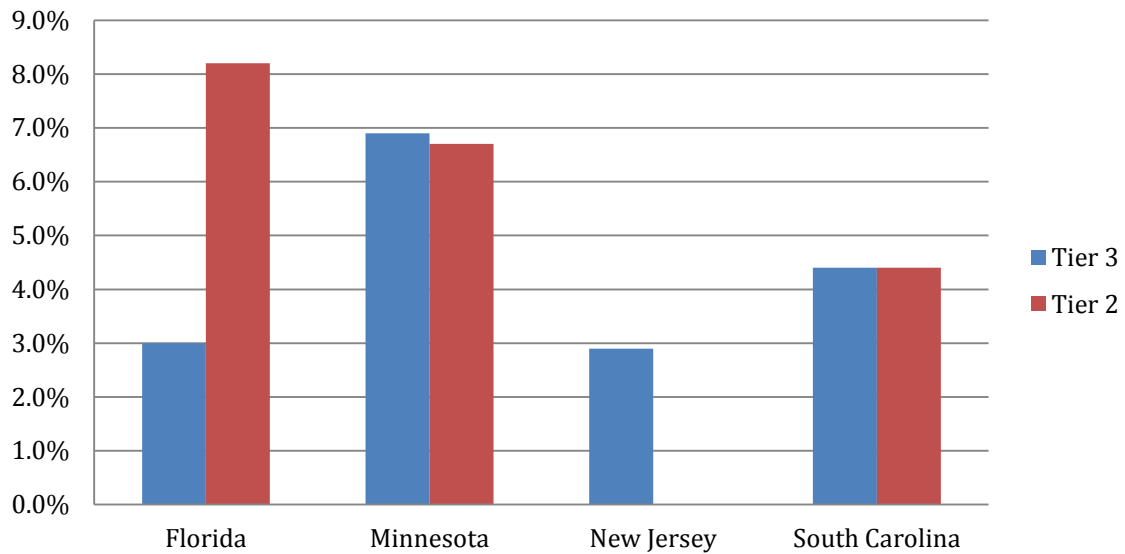


TABLE 14. ADAM WALSH ACT TIER-LEVEL RECIDIVISM IN OTHER STATES: 5-YEARS

| | Florida | Minnesota | New Jersey | South Carolina |
|--|---------------------|---------------------|--------------------|---------------------|
| Tier 3 Most serious offenses | 3.0% (8 of 266) | 6.9% (24 of 350) | 2.9% (7 of 233) | 4.4% (12 of 272) |
| Tier 2 | 8.2% (17 of 208) | 6.7% (4 of 60) | 0% (0 of 5) | 4.4% (8 of 182) |

SOURCE: Zgoba et al. 2012

FIGURE 10. ADAM WALSH ACT TIER-LEVEL RECIDIVISM IN OTHER STATES: 5-YEARS



Summary of Recidivism Findings. A number of general findings can be reported from the findings presented in this section of the report. First, when recidivism rates are compared, a tentative conclusion based on the 2-year and 1-year recidivism rates is that the pre-LB 285 risk assessment-based registry resulted in less recidivism than the post-LB28 offense severity-based registry. The primary difference between the two overall methods of registry is that prior to LB 285, only the registrants deemed most likely to reoffend (Risk Level 3) were placed on the public sex offender registry. Under this system, Risk Level 2 offenders' names could be shared with institutions and organizations that dealt with children, but the names were not available to the general public. The names of Risk Level 1 offenders were for private use by law enforcement agencies. Because persons placed on a public sex offender registry face stigmatization and the possibility of difficulties and roadblocks in the pursuit of objectives such as employment, education, and housing, placing persons at low-risk to reoffend on a public registry might result in significant personal frustration, and ultimately create more recidivism rather than less.

Second, data in Table 7 compared recidivism in Nebraska to that of other states that were subject to a study of recidivism. The data indicate an average 5-year recidivism rate across 4 states of 5.1%, which is lower than Nebraska's overall rate (5.7%), but higher than Nebraska's 2-year recidivism rates (1.7% pre-LB 285 and 2.6% post LB 285). This suggests that, in general, sex offender recidivism in Nebraska is comparable to what is being experienced in other states.

Third, an examination of rates of recidivism across levels of risk as determined by a psychological risk-assessment indicates that this system performed well in predicting sex offense recidivism. This pre-LB 285 classification system consistently predicted offenders' risk to reoffend.

Fourth, an examination of rates of recidivism across Adam Walsh Act Tier Levels based on offense severity suggests that the vast majority of recidivism is committed by Tier 3 offenders. These are the offenders who committed aggravated felony offenses, such as those that included force, a drugged victim, a disabled victim, and/or a victim under the age of 13. Recidivism is low amongst Tier 2 and Tier 1 offenders, but inconsistent with the logic of the tiers and the length of registration, Tier 1 offenders (with the least severe offenses) have an overall recidivism rate that is double to triple that of Tier 2 offenders who committed crimes of medium severity. As a result, the distinction between Tier 3 offenders and all other offenders is a very meaningful distinction among this sample of Nebraska registered offenders, but the distinction between Tier 2 and Tier 1 is much less meaningful and/or useful.

Finally, research comparing classification systems based on psychological risk assessments and the AWA Tier system have been strongly critical of the latter. For example, a study funded by the National Institute of Justice compared risk-based

classification to AWA classification in four states. In each state, the risk-based systems were accurate in predicting differences in the risk to reoffend. However, the AWA system was of only marginal use for predicting recidivism in some states, and largely inaccurate in predicting recidivism in Florida. To my knowledge, this is the first study indicating that AWA Tier 3 offenders are at substantially higher risk of recidivism as compared to all other registered offenders. In this sample, this is the strength of the AWA system. A potential shortcoming of the use of the AWA system in Nebraska is that it added a significant number of offenders to the public registry, yet these Tier 2 and Tier 1 offenders appear to be unlikely to reoffend.

FACTORS RELATED TO REGISTRANTS' RECIDIVISM

This section of the report focuses on offender characteristics, victim characteristics, and offense characteristics that are related to sex offense recidivism. These factors are the driving forces behind psychological risk assessment tools and offense severity classifications such as those adopted by the Adam Walsh Act. Sample size varies considerably across variables, as not all information was collected from all offenders. For example, information retrieved by the psychological risk assessment is not available for offenders placed on the registry after January 1, 2010, as the risk assessment was no longer used after LB 285 went into effect.

Offender characteristics. A number of basic demographic characteristics are clearly related to sex offense recidivism, whereas a number of the “usual suspects” in criminology research are less meaningful for predicting sex offenses. In this Nebraska sample, race and ethnicity are unrelated to recidivism. Table 15 indicates that Native Americans have the highest rate of recidivism and Asians have the lowest recidivism, but the Chi-Square test indicates that these differences are not statistically significant.⁵ Regarding ethnicity, Table 16 indicates that non-Hispanics have higher rates of recidivism than Hispanics, but the difference is not statistically significant. This data is displayed graphically in Figure 11.

⁵ The Chi-Square test is used to determine if two categorical variables are “independent” of each other or related to each other. It is common practice to adopt a *p*-value of .05 to determine dependence or independence. A value of .05 or less suggests that we are at least 95% confident that a relationship between two categorical variables is not due to chance.

TABLE 15. RECIDIVISM BY OFFENDER RACE

| White | Black | Asian | Native American |
|---------------|-------------|-----------|-----------------|
| 6.3% | 6.6% | 4.5% | 8.1% |
| (166 of 2615) | (24 of 362) | (1 of 21) | (5 of 62) |

$\chi^2 = 0.457$, $df = 3$, $p = 0.928$

TABLE 16. RECIDIVISM BY OFFENDER ETHNICITY

| Hispanic | Non-Hispanic |
|------------|---------------|
| 4.9% | 6.5% |
| (9 of 184) | (183 of 1810) |

$\chi^2 = 0.756$, $df = 1$, $p = 0.385$

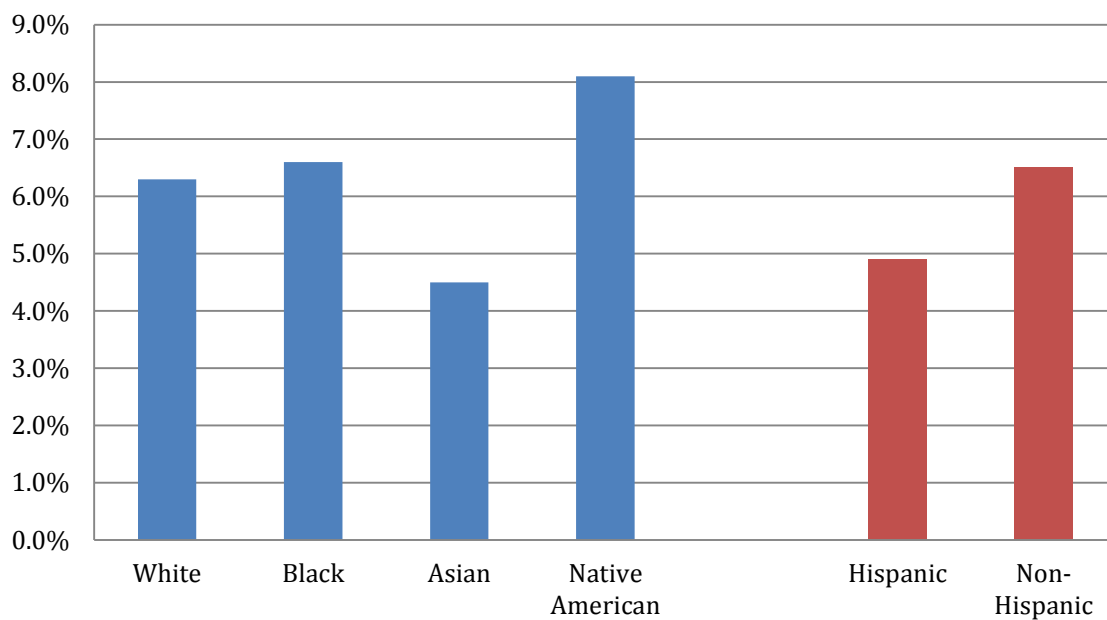
**FIGURE 11. RECIDIVISM BY OFFENDER CHARACTERISTICS:
RACE AND ETHNICITY**

Table 17 suggests that male registered sex offenders are more than twice as likely to recidivate as compared to female registered sex offenders. Due to the small number of female recidivists, however, this difference is only marginally significant ($p = 0.094$). Table 18 includes data on recidivism and the age of the offender at the time of arrest. Younger offenders were slightly more likely to reoffend, but this difference is not significant. This data is displayed graphically in Figure 12.

TABLE 17. RECIDIVISM BY OFFENDER SEX

| Male | Female |
|---------------|------------|
| 6.5% | 2.6% |
| (193 of 2947) | (3 of 114) |

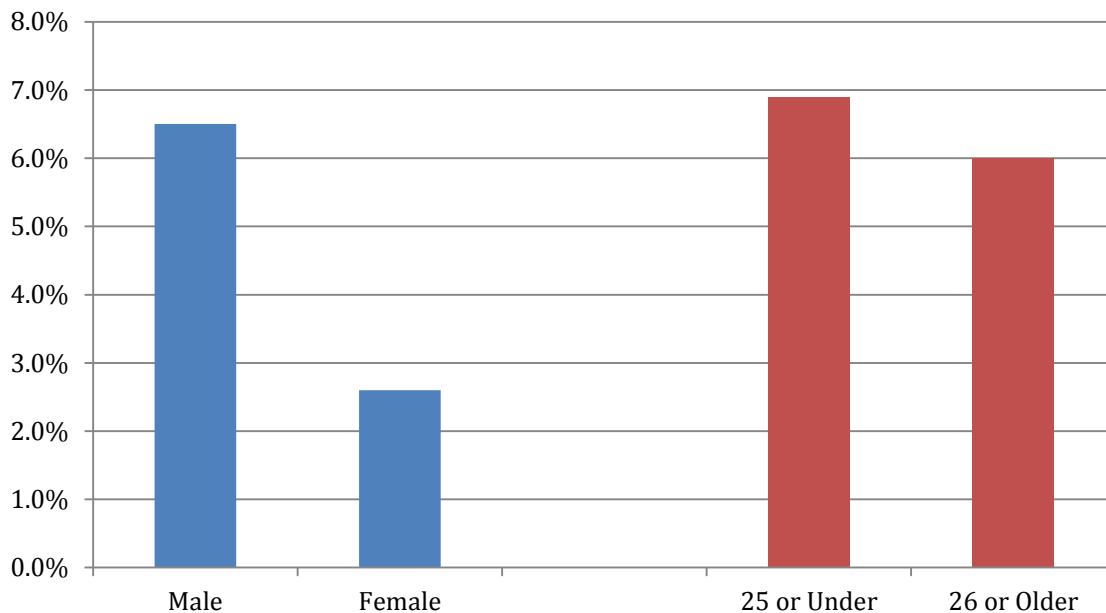
$$\chi^2 = 2.810, df = 1, p = 0.094$$

TABLE 18. RECIDIVISM BY OFFENDER AGE AT ARREST

| 25 or Under | 26 or Older |
|--------------|--------------|
| 6.9% | 6.0% |
| (97 of 1403) | (99 of 1659) |

$$\chi^2 = 1.136, df = 1, p = 0.286$$

**FIGURE 12. RECIDIVISM BY OFFENDER CHARACTERISTICS:
SEX AND OFFENDER AGE AT ARREST**



Information on mental/cognitive functioning was collected by the psychological risk assessment instrument when such information was available. Table 19 indicates that the presence of a developmental disability is related to higher rates of reoffending. However, due to the small numbers of registered offenders with a diagnosis of such a disability, the difference is not statistically significant. Table 20 suggests that the presence of a psychotic disorder is actually related to less recidivism. However, this difference is also not statistically significant. Finally, Table 21 provides data on recidivism and personality disorder. Individuals with a diagnosed personality disorder were more likely to reoffend than other registrants, and this is a significant difference ($p = 0.034$). This data is displayed graphically in Figure 12.

TABLE 19. RECIDIVISM BY PRESENCE OF DEVELOPMENTAL DISABILITY

| Disability Present | No Disability |
|---------------------------|----------------------|
| 12.5% | 6.8% |
| (3 of 21) | (156 of 2305) |

$$\chi^2 = 1.227, df = 1, p = 0.268$$

TABLE 20. RECIDIVISM BY PRESENCE OF PSYCHOTIC DISORDER

| Yes | No |
|------------|---------------|
| 3.6% | 6.8% |
| (1 of 27) | (157 of 2140) |

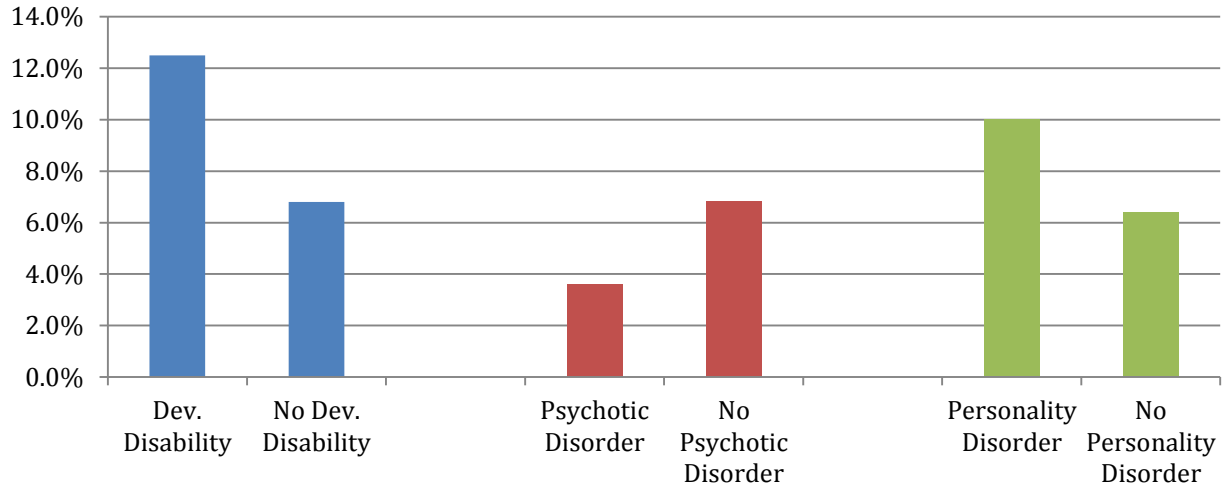
$$\chi^2 = 0.465, df = 1, p = 0.495$$

TABLE 21. RECIDIVISM BY PRESENCE OF PERSONALITY DISORDER*

| Yes | No |
|-------------|---------------|
| 10.0% | 6.4% |
| (24 of 215) | (135 of 2110) |

$$\chi^2 = 4.517, df = 1, p = 0.034$$

FIGURE 13. RECIDIVISM BY OFFENDER DISABILITY/DISORDER



Victim Characteristics. Research indicates that a number of victim characteristics are also related to risk to reoffend. In other words, by examining the characteristics of the victim or victims that offenders choose, we can make certain assumptions about future behavior. An asterisk denotes relationships that are statistically significant at a p -value of .05, indicating that we are 95% confident that the relationship is not due to chance alone.

Tables 22-24 examine the relationship between the offender and the victim. Table 22 focuses specifically on whether the victim was a family member to the offender. The data indicate that offenders who victimize family members are more likely to reoffend than offenders who victimize non-family members. Table 23 provides data on offenders who victimize an acquaintance. If the victim is an acquaintance to the offender, the likelihood of recidivism is twice as high as for persons whose victims were not acquaintances, and this difference is highly significant ($p < 0.001$). Finally, Table 24 finds that persons who victimize strangers are actually at a lower risk to reoffend, but this difference is not significant. This data is displayed graphically in Figure 13.

TABLE 22. RECIDIVISM IF VICTIM WAS A FAMILY MEMBER*

| Yes | No |
|--------------|---------------|
| 8.0% | 5.6% |
| (83 of 1040) | (109 of 1933) |

$\chi^2 = 6.139$, $df = 1$, $p = 0.013$

TABLE 23. RECIDIVISM IF VICTIM WAS AN ACQUAINTANCE*

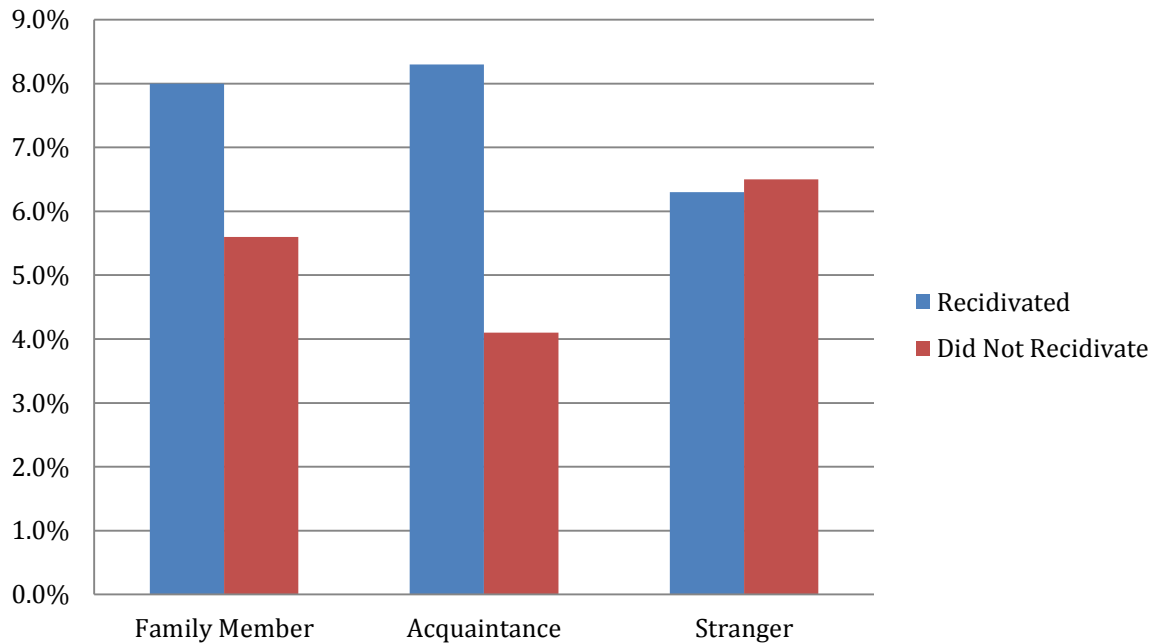
| Yes | No |
|---------------|--------------|
| 8.3% | 4.1% |
| (140 of 1551) | (52 of 1282) |

$\chi^2 = 21.526$, $df = 1$, $p < 0.001$

TABLE 24. RECIDIVISM IF VICTIM WAS A STRANGER

| Yes | No |
|-------------|---------------|
| 6.3% | 6.5% |
| (32 of 507) | (160 of 2466) |

$\chi^2 = 0.022$, $df = 1$, $p = 0.883$

FIGURE 14. RECIDIVISM BY RELATIONSHIP TO VICTIM

Information on recidivism by sex of the victim is found in Table 25 and Figure 14. Those who victimize females are slightly more likely to recidivate than those who victimize males. However, offenders with victims of both sexes have substantially higher rates of reoffending and the differences across the three groups is highly significant ($p < 0.001$).

Rates of reoffending by age of the victim is presented in Table 26 and Figure 15. This table compares the recidivism of those who victimize the youngest of offenders (11 or under) to those who victimize persons of all other ages. Those victimizing the youngest offenders are more likely to reoffend and the difference is highly significant ($p < 0.001$).

TABLE 25. RECIDIVISM BY SEX OF VICTIM*

| Female | Male | Both Female & Male |
|---------------|-------------|-------------------------------|
| 6.0% | 4.8% | 15.4% |
| (150 of 2497) | (11 of 228) | (31 of 201) |

$\chi^2 = 28.115$, $df = 2$, $p < 0.001$

FIGURE 15. RECIDIVISM BY SEX OF VICTIM

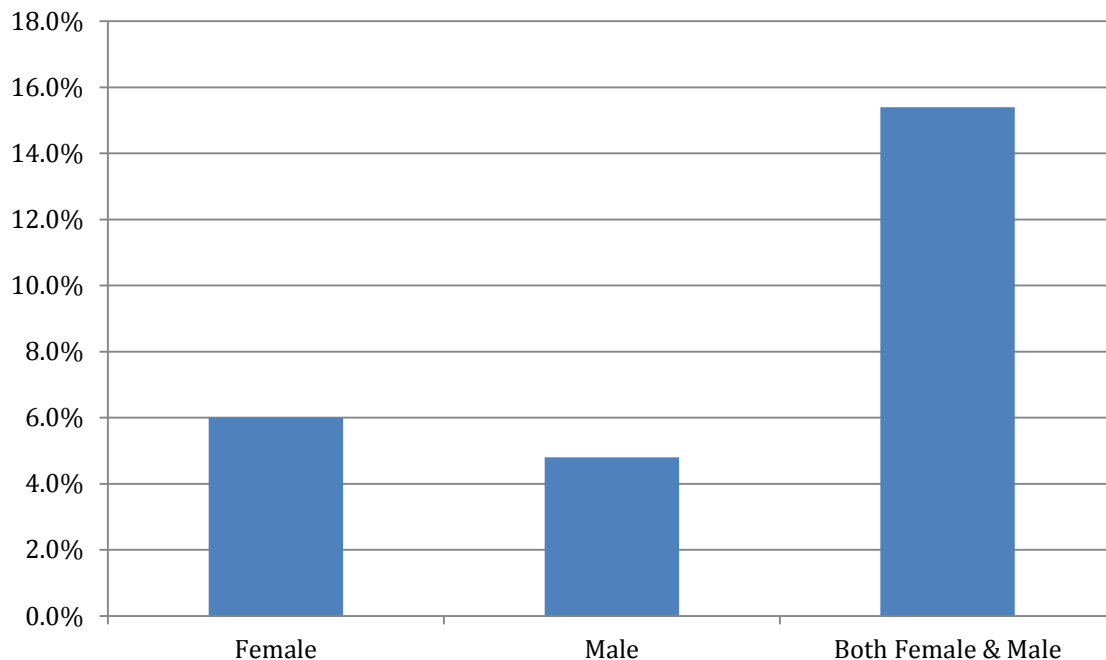
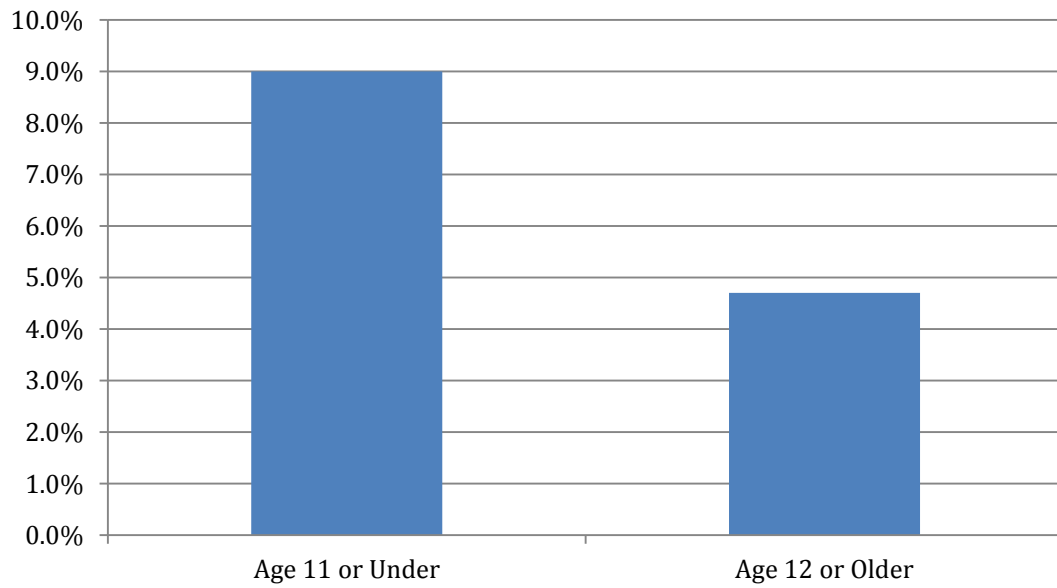


TABLE 26. RECIDIVISM OF OFFENDERS WITH VICTIMS AGE 11 OR UNDER*

| Age 11 or Under | Age 12 or Older |
|-----------------|-----------------|
| 9.0% | 4.7% |
| (104 of 1155) | (87 of 1834) |

$\chi^2 = 21.506$, $df = 1$, $p < 0.001$

**FIGURE 16. RECIDIVISM OF OFFENDERS WITH VICTIMS
AGE 11 OR UNDER**



Offense characteristics. The remaining tables in this section focus on characteristics of the offense that was committed which resulted in the offender being required to register as a sex offender. The first two tables examine recidivism as it is related to the particular act that occurred. Table 27 indicates that recidivism is higher when the offense involved explicit material, and this difference is marginally significant ($p = 0.053$). Specifically, these cases involved the “possession or manufacturing of sexually explicit material of a child without verbal or physical interaction”. Table 28 shows that recidivism is three-times more likely when the offense involved fondling, as compared to when it did not. This difference is highly significant ($p = 0.001$). These cases involved fondling and/or manipulation and/or seduction and/or coercion and/or the use of authority to obtain sexual gratification. This data is displayed graphically in Figure 16.

TABLE 27. RECIDIVISM WHEN OFFENSE INVOLVES EXPLICIT MATERIAL

| Yes | No |
|-------------|---------------|
| 9.4% | 6.1% |
| (21 of 223) | (169 of 2759) |

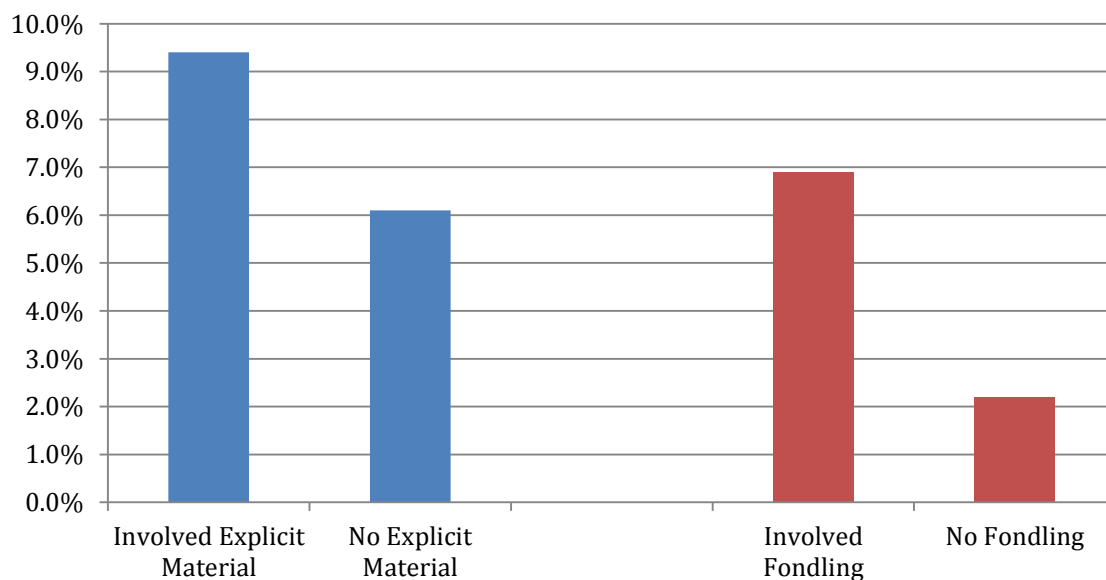
$$\chi^2 = 3.747, df = 1, p = 0.053$$

TABLE 28. RECIDIVISM WHEN OFFENSE INVOLVES FONDLING*

| Yes | No |
|---------------|------------|
| 6.9% | 2.2% |
| (183 of 2666) | (7 of 316) |

$$\chi^2 = 10.236, df = 1, p = 0.001$$

FIGURE 17. RECIDIVISM WHEN OFFENSE INVOLVES EXPLICIT MATERIAL OR FONDLING



Research on sex offender recidivism has traditionally suggested that offenders who use drugs and alcohol to facilitate the crime and offenders who choose vulnerable victims are more likely to reoffend. Our data provide no support for these assertions, however. Table 29 includes recidivism rates for offenses involving victims who are vulnerable due to physical or mental abnormality. This consideration appears to have no impact on recidivism. Table 30 represents cases when the offender provided or encouraged the use of drugs, chemicals, and/or alcohol to control the victim. This type of offense is actually related to slightly lower rates of reoffending, but the difference is not significant. This data is displayed graphically in Figure 17.

The final three tables in this section focus on offenses that involved threats, violence, or serious injury. Table 31 indicates that recidivism is elevated when the offense included threat of violence, but the difference is not significant. Table

TABLE 29. RECIDIVISM WHEN OFFENSE INVOLVES A VULNERABLE VICTIM

| Yes | No |
|-----------|---------------|
| 6.5% | 6.3% |
| (5 of 77) | (184 of 2902) |

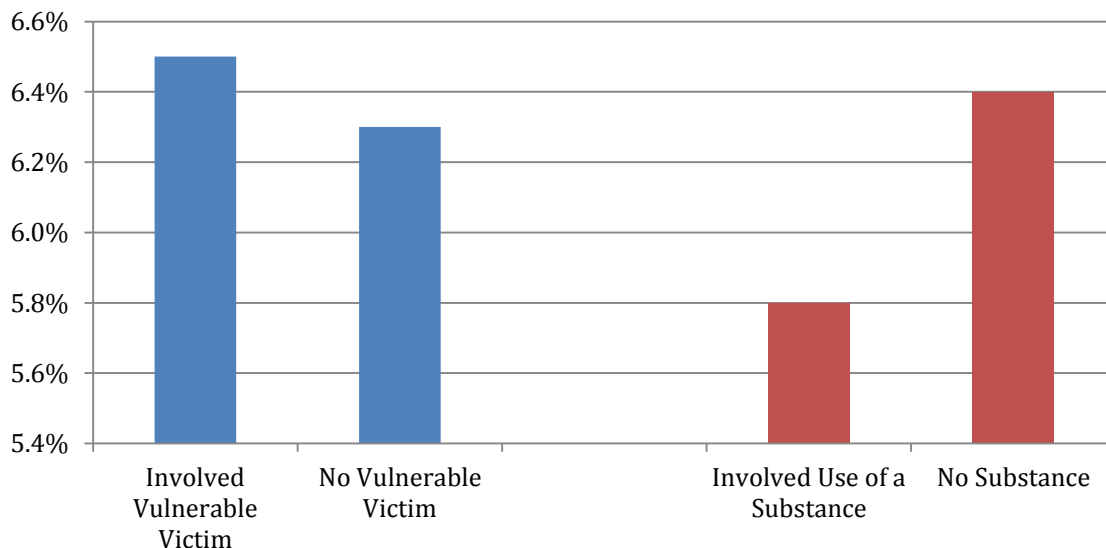
$$\chi^2 = 0.003, df = 1, p = 0.957$$

TABLE 30. RECIDIVISM WHEN OFFENSE INVOLVES USE OF A SUBSTANCE

| Yes | No |
|------------|---------------|
| 5.8% | 6.4% |
| (8 of 139) | (182 of 2842) |

$$\chi^2 = 0.093, df = 1, p = 0.760$$

**FIGURE 18. RECIDIVISM BY
VULNERABLE VICTIM OR SUBSTANCE USE**



32 describes the recidivism of offenses that included physical force or violence, a restrained victim, or threats that included a weapon or other dangerous object. Recidivism is much higher in these instances, and the difference is highly significant ($p < 0.000$). Finally, Table 33 includes offenses that involved serious bodily injury. Although recidivism was higher in these cases, the difference was not significant. This data is displayed graphically in Figure 18.

TABLE 31. RECIDIVISM WHEN OFFENSE INVOLVES THREATS

| Yes | No |
|-------------|---------------|
| 8.3% | 6.1% |
| (26 of 315) | (164 of 2667) |

$$\chi^2 = 2.092, df = 1, p = 0.148$$

TABLE 32. RECIDIVISM WHEN OFFENSE INVOLVES USE OF VIOLENCE*

| Yes | No |
|-------------|---------------|
| 9.2% | 5.5% |
| (66 of 717) | (124 of 2264) |

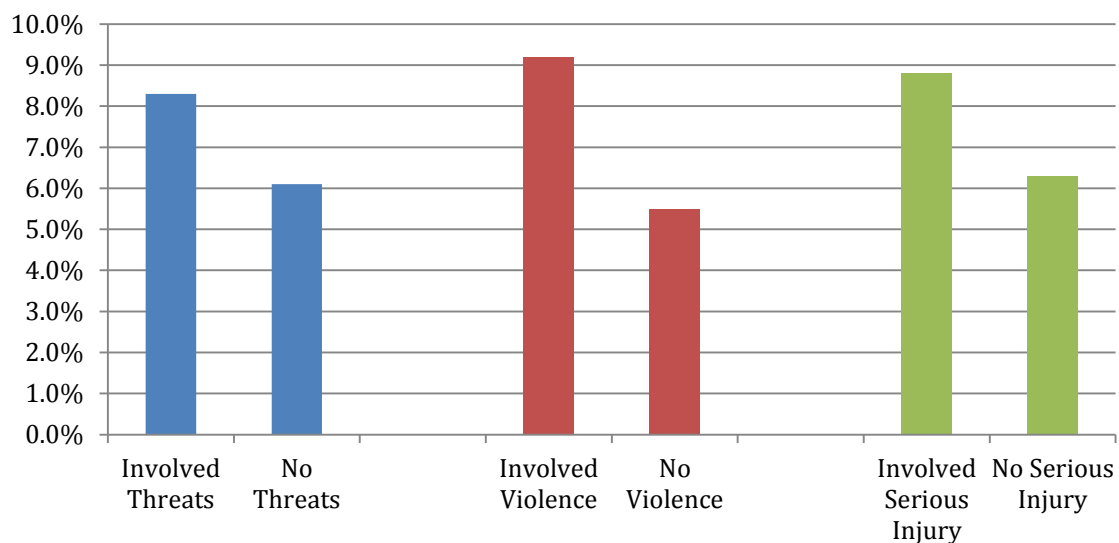
$$\chi^2 = 12.682, df = 1, p < 0.000$$

TABLE 33. RECIDIVISM WHEN OFFENSE INVOLVES SERIOUS INJURY

| Yes | No |
|-----------|---------------|
| 8.8% | 6.3% |
| (3 of 34) | (187 of 2946) |

$$\chi^2 = 0.345, df = 1, p = 0.557$$

FIGURE 19. RECIDIVISM BY PRESCENCE OF THREATS, VIOLENCE, OR SERIOUS INJURY DURING OFFENSE



Summary of the Analysis of Correlates of Recidivism. Characteristics of the offenders, the victims, and the offenses were all significantly related to higher levels of recidivism. Regarding offender characteristics, male offenders were more likely to reoffend as compared to female offenders and offenders diagnosed with a personality disorder were also more likely to recidivate. Regarding victim characteristics, if the victim is a family member or if the victim is an acquaintance, rates of recidivism are elevated. The latter has the stronger relationship, more than doubling the likelihood of a new sex offense. Also, recidivism is more likely if the offense involved a victim age 11 or under. The most important characteristic of victims in relation to recidivism is the sex of the victim. Specifically, if the offense included both male and female victims, rates of reoffending were substantially higher. Finally, characteristics of the offense were considered. Rates of recidivism were elevated if the offense included explicit material or fondling, with the latter having the strongest relationship with subsequent offending. Offenses that involved the use of violence were also related to recidivism.

The most important finding of this section is that sex offenders who victimize strangers are not more likely to recidivate. However, if the victim is an acquaintance, recidivism is much higher. Recidivism is also higher if the victim is family. If we combine this information with the data in Table 2 indicating that less than 17% of the cases leading to registry in Nebraska involved strangers, we must give thought to the purpose of the registry. Table 2 indicates that 56% of offenses resulting in registry in Nebraska involve victims who were acquaintances. Combined with the finding that offenders targeting acquaintances are more likely to reoffend, this research suggests that *if the registry is to be an effective tool to protect the public, the registry should be used to protect ourselves and our loved ones from potentially dangerous acquaintances, not the stereotypical stranger lurking in the bushes.*

Multivariate analysis. Although it is important to look at individual factors that are related to sex offense recidivism, the reality of crime causation is the concurrence of multiple factors that can promote or deter reoffending. To address this reality, multivariate models were estimated to determine the effect of individual variables, while controlling for the effect of other salient factors. The models in this section use logistic regression to determine the impact of individual variables on the odds of recidivism.

The model in Table 34 examines the impact of offender characteristics on sex offense recidivism.⁶ This model indicates that, controlling for the other factors, a diagnosis of personality disorder is the only offender characteristic that significantly impacts recidivism. The odds-ratio of 1.653 indicates that, “all else equal”, offenders

⁶ For each variable included in the model, the regression coefficient (β) indicates whether the impact on recidivism is positive or negative. The standard error (S.E.) reflects the accuracy of the prediction relevant to the size of the regression coefficient. The p-value indicates whether the effect is statistically significant, or unlikely to be due to chance. The odds-ratio indicates the extent to which the variable impacts the likelihood of recidivism.

diagnosed with a personality disorder are more than 1.6 times more likely to recidivate than offenders without the diagnosis.

The model in Table 35 adds victim characteristics and offense characteristics. The first finding of interest is that adding these variables to the model reduces the importance of a personality disorder diagnosis to non-significance. In other words, when we account for characteristics of the victim and of the offense, the presence of a personality disorder diagnosis is no longer a relevant predictor of recidivism. In this sense, knowledge of characteristics of the victim and characteristics of the offense are more important in predicting recidivism than knowledge of characteristics of the offender.

In contrast, five of the six variables related to victim characteristics have a significant impact on recidivism. First, if the victim was a family member, the odds of recidivism are about 1.7 times higher than if the victim was not a family member. Second, if the victim was an acquaintance, the odds of recidivism are nearly 3.5 times higher than if the victim was not an acquaintance. Third, if the offense included both male and female victims, the likelihood of reoffending is about 1.7 times higher. The last two significant effects related to victim characteristics concern the age of the victim. If the victim was under the age of 11 or between the ages of 12 and 17, then the odds of recidivism are 1.7 times higher.

Finally, two variables related to offense characteristics have a significant impact on recidivism. First, if the offense involved explicit materials, odds of recidivism are about 3.4 times greater than if the offense did not involve explicit materials. Second, if the offense involved violence, the likelihood of recidivism is increased by about 1.9 times.

TABLE 34. EFFECT OF OFFENDER CHARACTERISTICS ON SEX OFFENSE RECIDIVISM

| | β | S.E. | <i>p</i> -value (level of significance) | Exp(β) Odds-Ratio |
|-----------------------------|---------|-------|---|------------------------------|
| Black | 0.008 | .252 | .975 | 1.008 |
| Asian | 0.371 | 1.055 | .725 | 1.449 |
| Native American | 0.325 | .534 | .542 | 1.384 |
| Hispanic | -0.658 | .467 | .159 | 0.518 |
| Male | 0.764 | .594 | .199 | 2.146 |
| Age at Arrest 26+ | -0.099 | .169 | .555 | 0.905 |
| Developmental Disability | 0.700 | .639 | .273 | 2.013 |
| Psychotic Disorder | -0.672 | 1.027 | .513 | .511 |
| Personality Disorder | 0.503 | .246 | .041 | 1.653 |
| Constant | -3.343 | .595 | | |

NOTES: Reference category for the race variables is white.

Reference category for Hispanic is non-Hispanic.

Odds-ratios for significant variables are boldface.

TABLE 35. EFFECT OF OFFENDER CHARACTERISTICS, VICTIM CHARACTERISTICS, AND OFFENSE CHARACTERISTICS ON SEX OFFENSE RECIDIVISM

| | β | S.E. | <i>p</i> -value (level of significance) | Exp(β) Odds-Ratio |
|--|---------|-------|---|------------------------------|
| <i>Offender Characteristics</i> | | | | |
| Black | 0.212 | .267 | .427 | 1.236 |
| Asian | 0.576 | 1.068 | .589 | 1.779 |
| Native American | 0.463 | .548 | .714 | 1.589 |
| Hispanic | -0.527 | .480 | .272 | 0.590 |
| Male | 0.643 | .607 | .289 | 1.903 |
| Age at Arrest 26+ | -0.033 | .186 | .860 | 0.968 |
| Developmental Disability | 0.534 | .691 | .440 | 1.705 |
| Psychotic Disorder | -0.951 | 1.057 | .368 | 0.386 |
| Personality Disorder | 0.157 | .265 | .554 | 1.170 |
| <i>Victim Characteristics</i> | | | | |
| Victim is Family Member | 0.531 | .250 | .034 | 1.701 |
| Victim is Acquaintance | 1.246 | .250 | .000 | 3.477 |
| Victim is Male | -0.412 | .385 | .285 | 0.662 |
| Victims are Both Male and Female | 0.556 | .277 | .045 | 1.743 |
| Victim Age 11 or Under | 0.547 | .229 | .017 | 1.728 |
| Victim Age 12 to 17 | 0.537 | .214 | .012 | 1.710 |
| <i>Offense Characteristics</i> | | | | |
| Explicit Material | 1.223 | .329 | .000 | 3.398 |
| Fondling | 0.878 | .486 | .071 | 2.407 |
| Threats | -0.064 | .280 | .818 | 0.938 |
| Vulnerable Victim | -0.409 | .628 | .515 | 0.664 |
| Substance Used | 0.010 | .392 | .980 | 1.010 |
| Violence | 0.647 | .205 | .002 | 1.910 |
| Serious Injury | 0.474 | .677 | .484 | 1.606 |
| Constant | -6.002 | .784 | | |

NOTES: Reference category for the race variables is white.

Reference category for Hispanic is non-Hispanic.

Reference category for relationship to victim is stranger.

Reference category for victim sex is female.

Reference category for victim age is 18 or older.

Odds-ratios for significant variables are boldface.

The last step of the multivariate analysis is to examine the usefulness of the risk assessment levels and Adam Walsh Act Tiers in predicting recidivism, controlling for offender characteristics.⁷ Table 36 includes offender characteristics and risk assessment scores from the pre-LB 285 system of sex offender registration. Similar

⁷ In these models, characteristics of the victim and characteristics of the offense must be omitted from the models because combinations of these factors determine the risk level and largely determine the AWA Tier Level. Including the former variables in the same model as the latter variables would “double-count” these factors, violating fundamental assumptions of the statistical models.

to the model in the previous table, none of the offender characteristics are significantly related to recidivism when controlling for risk assessment scores. Regarding the risk assessment variables, the reference category is the lowest level of risk (Risk Level 1). Controlling for offender characteristics, offenders assigned a risk level of 3 (high risk to reoffend) were about 3.3 times more likely to reoffend than offenders assigned a risk level of 1. Also, offenders assigned a risk level of 2 (medium risk to reoffend) were nearly 3.5 times more likely to reoffend than offenders assigned a risk level of 1.

TABLE 36. EFFECT OF OFFENDER CHARACTERISTICS AND RISK ASSESSMENT SCORES ON SEX OFFENSE RECIDIVISM

| | β | S.E. | <i>p</i> -value (level of significance) | Exp(β) Odds-Ratio |
|--|---------|-------|---|------------------------------|
| <i>Offender Characteristics</i> | | | | |
| Black | -0.168 | .255 | .510 | 0.845 |
| Asian | 0.268 | 1.069 | .802 | 1.308 |
| Native American | 0.207 | .540 | .702 | 1.230 |
| Hispanic | -0.697 | .469 | .138 | 0.498 |
| Male | 0.630 | .598 | .292 | 1.878 |
| Age at Arrest 26+ | 0.030 | .172 | .861 | 1.030 |
| Developmental Disability | 0.437 | .640 | .495 | 1.547 |
| Psychotic Disorder | -0.853 | 1.031 | .408 | 0.426 |
| Personality Disorder | 0.163 | .251 | .516 | 1.178 |
| <i>Risk Assessment Scores</i> | | | | |
| Risk Level 3 | 1.203 | .238 | .000 | 3.329 |
| Risk Level 2 | 0.130 | .250 | .000 | 3.477 |
| Constant | -3.903 | .784 | | |

NOTES: Reference category for the race variables is white.

Reference category for Hispanic is non-Hispanic.

Reference category for Risk Levels is 1.

Odds-ratios for significant variables are boldface.

Table 37 includes offender characteristics and risk assessment scores from the post-LB 285 system of sex offender registration. Again, none of the offender characteristics significantly impact the likelihood of reoffending. Regarding the Adam Walsh Act Tier Levels, the reference category is Tier 1 (representing the lowest level of offense severity). The one significant variable in the model is AWA Tier 3. This variable is highly related to recidivism. Controlling for offender characteristics, offenders assigned to Tier Level 3, as compared to offenders assigned to Tier Level 1, are about 13 times more likely to recidivate. In contrast, offenders assigned to Tier Level 2 are not significantly more likely to recidivate than offenders assigned to Tier Level 1.

TABLE 37. EFFECT OF OFFENDER CHARACTERISTICS AND ADAM WALSH ACT TIER LEVEL ON SEX OFFENSE RECIDIVISM

| | β | S.E. | <i>p</i> -value (level of significance) | Exp(β) Odds-Ratio |
|--|---------|-------|---|------------------------------|
| <i>Offender Characteristics</i> | | | | |
| Black | -0.087 | .260 | .737 | 0.916 |
| Asian | 1.065 | 1.153 | .355 | 2.902 |
| Native American | 0.139 | .550 | .702 | 1.150 |
| Hispanic | -0.571 | .477 | .231 | 0.565 |
| Male | 0.772 | .604 | .201 | 2.163 |
| Age at Arrest 26+ | -0.304 | .175 | .082 | 0.738 |
| Developmental Disability | 0.365 | .649 | .574 | 1.440 |
| Psychotic Disorder | -0.866 | 1.036 | .404 | 0.421 |
| Personality Disorder | 0.064 | .251 | .800 | 1.066 |
| <i>Adam Walsh Act Tier Levels</i> | | | | |
| AWA Tier 3 | 2.637 | .460 | .000 | 13.976 |
| AWA Tier 2 | -0.826 | .733 | .260 | 0.438 |
| Constant | -5.118 | .747 | | |

NOTES: Reference category for the race variables is white.

Reference category for Hispanic is non-Hispanic.

Reference Category for AWA Tiers is Tier 1.

Odds-ratios for significant variables are boldface.

Summary of multivariate models. These models allow a consideration of multiple factors and provide the effect of individual factors on recidivism, holding constant the effect of the other variables in the model. When only offender characteristics are considered, a diagnosis of personality disorder significantly increases the likelihood of sex offense recidivism. However, the model in Table 35 suggests that the impact of offender characteristics is of little consequence when compared simultaneously with victim characteristics and offense characteristics. In this model, most of the variables representing victim characteristics significantly impact recidivism, suggesting that *we must take into account characteristics of the victim if we want to adequately predict recidivism amongst sexual offenders*. Important victim characteristics include whether the victim was a family member, victim was an acquaintance, victims included both males and females, and victim was under 11 or aged 12 to 17 as compared to older victims. The model in Table 36 indicates that sex offender risk levels assigned to high risk and medium risk offenders successfully predict higher rates of recidivism as compared to low risk offenders. Finally, the model in Table 37 suggests that the AWA Tier 3 offenders (those classified as guilty of the most severe sexual offenses) are nearly 14 times more likely to recidivate as Tier 1 offenders classified as committing the least serious sex offenses.

CONCLUSIONS AND POLICY RECOMMENDATIONS

Conclusions. This project focused on providing a better understanding Nebraska's registered sex offenders and the functioning of Nebraska's Sex Offender Registry. Our research provided a substantial amount of information regarding registered sex offenders in Nebraska. For example, we detailed the characteristics of the registrants themselves, as well as characteristics of their victims and offenses. Also, we presented rates of sex offense recidivism for pre-LB 285 registrants and for post-LB 285 registrants and compared the relative efficacy of the risk levels for the former and AWA Tiers for the latter in predicting the likelihood to reoffend. Next, we provided an in-depth examination of factors that are related to recidivism among our sample of registered sex offenders in Nebraska. Finally, we conducted multivariate analysis allowing an examination of the impact of individual characteristics of offenders, victims, and offenses on recidivism, while controlling for other relevant factors. A summary of the major findings of each of these project activities is provided in turn.

Characteristics of offenders, victims, and offenses. Data presented on the full registry of offenders in Tables 1 and 2 indicate that the *typical registered sex offender* in Nebraska is a white male over the age of 26. The *typical victim* is a female acquaintance, age 12 to 17. By far, the *most common type of offense was fondling*. For both the pre-LB 285 risk-based classification system and the post-LB 285 tier system based on offense severity, the most common tier classification (just over 50% in both cases) is Risk Level 3 or Tier 3, the most serious classification for each system. Although violence and/or a weapon were present in almost a quarter of the offenses, serious bodily injury was a rare event (1.1% of offenses).

Sex offense recidivism. In comparing the old risk-based system of classification to the new offense-based system of classification, Tables 5 and 6 present recidivism data suggesting that *the former risk-based system resulted in less overall recidivism*. Specifically, the pre-LB 285 classification system resulted in a 2-year recidivism rate of 1.7% and a 1-year recidivism rate of 0.6%. In comparison, the post-LB 285 classification system resulted in a 2-year recidivism rate of 2.6% and a 1-year recidivism rate of 1.7%. Another way of comparing the relative efficacy of the two systems of classification is to examine their effectiveness in determining the offenders that are at the highest risk to reoffend. In general, *the former system that assessed risk to reoffend through the use of a psychological risk assessment tool consistently distinguished offenders who were at a high, medium, and low risk to reoffend*. Findings for the Adam Walsh Act Tier system based on offense severity are a bit more complicated. For this Nebraska sample of registered offenders, *the AWA system was very effective in distinguishing those at a high risk to reoffend from medium and low risk offenders. However, the AWA classification system consistently failed to distinguish offenders at medium risk to recidivate from offenders at low risk to recidivate*. In fact, offenders identified as the lowest risk consistently had higher levels of recidivism than offenders identified as medium risk. In summary, *this analysis suggests that, as an overall tool for identifying more nuanced risk to reoffend,*

the old risk-based system appears more effective. However, if the goal is simply to distinguish the highest risk offenders from everyone else, the Adam Walsh Act Tier system appears most effective. One caveat, however, is that this latter finding is in sharp contrast to published research on sex offenders in other states (Zgoba et al. 2012).

Factors related to sex offender recidivism in Nebraska. Our analysis focused on characteristics of the offenders, victims, and offenses that were significantly related to reoffending. Regarding offender characteristics, male offenders were more likely to reoffend as compared to female offenders and offenders diagnosed with a personality disorder were more likely to reoffend. Regarding victim characteristics, rates of recidivism were significantly elevated if the victim was a family member or an acquaintance, with the latter more than doubling the likelihood of a new sex offense. Recidivism is also more likely if the victim was age 11 or under. The most salient characteristic of victims, however, is the sex of the victim, as rates of recidivism were substantially higher if the offense leading to registry involved both male and female victims. Finally, regarding characteristics of the offense, rates of recidivism were elevated if the offense included explicit material or fondling, with the latter displaying the strongest relationship to subsequent offending. Offenses that involved the use of violence and/or a weapon were also related to recidivism.

Multivariate analyses of factors predicting recidivism. These analyses allow a simultaneous consideration of multiple factors while predicting the effect of each factor on recidivism, holding constant the effect of the other variables in the model. This research indicated that the most important variables for predicting recidivism were characteristics of the victims, suggesting that *we must take into account victim characteristics if we want to adequately predict recidivism amongst sexual offenders.* Important victim characteristics include offenses in which the victim was a family member, the victim was an acquaintance, victims included both males and females, and the victim was under age 11 or aged 12 to 17 as compared to offenses involving older victims. We also used these models to assess the ability of the old classification system and new classification system to predict recidivism while controlling for, or holding constant, the effect of offender characteristics. Regarding the old system, being assigned a high risk level or medium risk level significantly predicted recidivism as compared to being assigned a low risk level to reoffend. Regarding the AWA classification system, the model predicts that the highest tier offenders in Nebraska were nearly 14 times more likely to recidivate as compared to the lowest tier offenders.

Limitations. The current study suffers from data limitations that tend to plague most sex offender research. The sex offender database was often unclear regarding dates of release and whether subsequent offenses were simply additional convictions from previous offenses or new offenses that represented recidivism, resulting in cases being omitted due to missing data. In addition, time and personnel constraints resulted in incomplete recidivism data for a small percentage of the data, which also had to be omitted. Finally, court dispositions were incomplete for many cases.

Although some data was retrieved from the local jurisdictions, this was not possible for all cases. Although overall rates of recidivism are likely underestimated, we have no reason to believe that these limitations inhibit our ability to make comparisons in rates of reoffending among the cases in the final sample.

Policy Recommendations. The primary goal of this study is to provide data and research findings as tools to facilitate the work of policy-makers. However, as some of the research findings directly lend themselves to obvious policy implications, we will briefly discuss these instances. We also compare these findings from Nebraska sex offender registry data to research done in other states, which allows us to embed the Nebraska experience within the larger research literature on registry classification systems and sex offender recidivism.

First, which is better...psychological risk assessments producing research-informed risk levels or the Adam Walsh Act Tier Levels? There is no black and white answer to this question and any decision must be founded on an understanding of how each system functions and the overall purpose of the sex offender registry. Regarding the old classification system adopted by Nebraska from January 1, 1997 to December 31, 2009, this risk assessment system did not seem to be broken. Our analysis indicates that overall rates of recidivism were low and the risk assessment instrument fairly accurately predicted risk of recidivism. The risk assessment tool might have needed some updating or even replacement, but (as mentioned in the introduction) a number of existing risk assessment instruments have been empirically validated and have been found to be useful and accurate for predicting sex offense recidivism. To have evidence-based knowledge available for predicting recidivism and to not use it seems foolhardy, at best. It appears that the Adam Walsh Act was founded more on public emotion than good science, which is its fundamental shortcoming.

Research in other states clearly suggests that the tiering systems already in use by New Jersey, Minnesota, South Carolina, and Florida outperformed the Adam Walsh Act tiers in predicting sexual reoffending. Consequently, the findings of the Zgoba et al. (2012) study call into question the accuracy and utility of the Adam Walsh Act classification system in detecting offenders that are at a high risk to reoffend. From a public safety standpoint, their research suggests that public safety has not been enhanced by the adoption of the Adam Walsh Act tiering system.

The benefit of risk assessment instruments is that they estimate the probability of sexual reoffense based on the actual recidivism rates of convicted sex offenders with similar characteristics (Epperson et al. 1999; Hanson 1997; Hanson and Thornton 1999; Quinsey et al. 1998). Although they cannot predict how an *individual* offender will behave, risk assessments allow offenders to be placed into categories that differ in their relative risk for recidivism (Barbaree et al. 2001; Hanson 1997; Hanson & Thornton 1999; Harris et al. 2003; Quinsey et al. 1998).

Whereas the majority of the risk assessment scores in the four-state study fell in the moderate-low risk range, the majority of sex offenders in all four states fell into Tier 3 of the Adam Walsh Act classification system. Thus, the Adam Walsh Act tiers often overestimated risk and implied that the majority of registered sex offenders posed a high threat to public safety. The consistency of the results across the four diverse states included in the study, as well as the consistency with research from the state of New York (Freeman and Sandler 2009) suggests that these findings would generalize to other states as well (Zgoba et al. 2012).

If a state's goal is to identify the potentially most dangerous sex offenders and apply to them the greatest level of supervision, treatment, and restriction, then *the evidence indicates that validated risk assessment instruments are superior to the Adam Walsh Act tiers in achieving this goal.*

In Nebraska, however, there is a large caveat, in that this research did not confirm the primary shortcoming of the AWA tier system reported in other states. Specifically, instead of overestimating the risk of sex offenders classified as Tier 3 (higher risk to reoffend), *our analysis suggests AWA Tier 3 offenders in Nebraska did offend at higher rates.* This robust finding was confirmed by the multivariate models. *So if the goal of our classification system is to distinguish between the highest risk offenders, on one hand, and everyone else on the other, then the AWA classification system appears to be functioning successfully.* The primary shortcoming of the AWA system, according to our research, is that it is not accurate in distinguishing the recidivism of medium-risk offenders and low-risk offenders. In contrast, our results consistently indicated that Tier 1 offenders (low risk) reoffended at a higher rate than Tier 2 offenders (medium risk).

Second, should all offenders be placed on a public registry, or should the public registry be reserved for only those at the highest risk to reoffend? The answer to this question also depends on the goal of the registry. Sex offender registries have potential benefits for society, but also involve social costs. Registries might prevent future offending, but they also have the potential to severely restrict social and economic opportunities of registered offenders. For dangerous offenders at a high risk to reoffend, it is reasonable to assume that the potential benefits outweigh the social and economic costs to registrants. However, for offenders that are at a low risk to reoffend and/or have committed less serious offenses, the benefit of increased public safety might not outweigh the social and economic costs to registrants. In our sample, under the old system, overall recidivism for Level 2 offenders was only 2.5% and overall recidivism for Level 1 offenders was only 2.1%. Under the new system, overall recidivism was 0.5% for Tier 2 offenders and 0.9% for Tier 3 offenders. These rates might be underestimated due to data limitations discussed earlier, but these numbers are quite low, regardless. The answer to this question is not an empirical one. It is more of a political and ethical issue. However, I include the following section to describe empirical research that can be utilized in answering the question.

Third, according to the research, what are the latent and collateral consequences of sex offender registration? A primary consideration regarding the goals and purpose of public sex offender registries in regard to public safety is the potential collateral consequences of one's affiliation with a public registry. To put it simply, if sex offender registration causes labeling and stigmatization that virtually precludes registrants from maintaining employment and pro-social bonds, the overall harm to society of sex offender registration might outweigh the benefit. There is no question that states must adopt strategies to protect society from the most serious offenders that are at the highest risk to reoffend. However, any study of the overall role of sex offender registration on a society must address the extent to which less serious offenders and/or those who are at low risk to reoffend should be exposed to public stigmatization.

Registrants might have difficulty finding housing and employment opportunities and suffer loss of social relationships and property damage (Levenson and Cotter 2005; Levenson, D'Amora, and Hern 2007; Mercado, Alvarez, and Levenson 2008; Sample and Streveler 2003; Tewksbury 2004, 2005; Tewksbury and Lees 2006; Zevitz and Farkas 2000; Zimring et al. 2009). Sex offenders report experiencing harassment, social isolation, and stigmatization, all of which might encourage continued deviance (Levenson and Cotter 2005; Tewksbury 2005; Tewksbury and Lees 2006). Research indicates that the families of registered offenders are profoundly impacted as well (Levenson and Tewksbury 2009). On the balance, some argue that the social consequences of sex offender registries might exacerbate the behaviors of sex offenders, rather than reduce them (Sample 2011).

A final consideration regarding this issue is the difficulty of measuring deterrence. Because deterrence is the "absence" behaviors, it is inherently difficult to discern. How many acts of terror, for instance, were prevented by the Patriot Act? We may be aware of some, but other terroristic threats were no doubt disrupted without our awareness. In conducting a cost/benefit analysis for sex offender registries, we have more information on the costs of the registry because these costs are more easily measured and researched. The primary benefit of registries is the deterrence of subsequent sex offenses, hence improving public safety. In the absence of accurate data, the deterrence effect of sex offender registries is largely a black box.

Fourth, what additional factors should be considered in decision-making regarding sex offender registries?

Registry and community notification laws apply only to convicted sex offenders. Most sexual offenses go unreported and not all reported offenses result in a conviction. Consequently, offenders placed on the registry represent only a small percentage of the individuals who have committed a sex offense.

Registry and community notification laws tend to be aimed at preventing sex offenses by strangers, although most offenders are known to the victim. For example, in cases of sexual abuse of minors, about 90% of victims have some type of relationship with

the perpetrator (Terry 2011). In the data reported here on the Nebraska registry, less than 17% of offenses involved victims who were strangers to the victim. Obviously, if public safety is the top concern, drawing attention to a small proportion of sex offenses, while ignoring the reality of the vast majority of sex offenses, seems counterintuitive. Moreover, the current research suggests that recidivism rates are higher for offenders that victimize family members and much higher for offenders who victimize acquaintances. Importantly, sex offenders with victims who are strangers are not more likely to recidivate. If we combine this information with the data in Table 2 indicating that less than 17% of the cases leading to sex offender registry in Nebraska involved strangers, we must give thought to the goals and purpose of the registry. Whatever the form of the registry or the method of classification, the public would be best served if the registry was promoted as a tool for providing information about people we know, not just strangers. The most common threats to offend and to reoffend in Nebraska are sex offenders who victimize acquaintances. The primary threat is NOT the stereotypical stranger lurking in the bushes. Regarding this issue, the Nebraska State Patrol registry website is to be applauded for addressing this issue in their list of Frequently Asked Questions under the question, "As a parent, how can I tell if a person is a sex offender?" However, it might be more useful to integrate this information into the primary website.

Registration is based on the location of the offender's residence, but empirical studies indicate that the location of offenders' residences is often unrelated to the location where the sex offense occurred (Terry 2011). For example, a study in Minnesota compared the proximity of sex offenders' residences with their crimes and found that only 7% of offenders in the study lived within one mile of the location of the offense (Minnesota Department of Corrections 2007). This issue should be considered in weighing the costs and benefits of including low-risk and medium-risk offenders on public registries.

In nearly all cases, adoption of the Adam Walsh Act tiers results in the community being notified about more sex offenders. With the increase in cases, it becomes more difficult for citizens in the community to discern which offenders on the list are the most dangerous and the most likely to recidivate. If the purpose of registry and community notification laws is to promote public safety, this widening of the net of offenders placed on the public list is in direct conflict with the primary purpose of sex offender registries.

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